



COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

COUNCIL MEMBERS	REDEVELOPMENT AGENCY
Dennis Kennedy, Mayor	Dennis Kennedy, Chair
Steve Tate, Mayor Pro Tempore	Steve Tate, Vice-Chair
Larry Carr, Council Member	Larry Carr, Agency Member
Mark Grzan, Council Member	Mark Grzan, Agency Member
Greg Sellers, Council Member	Greg Sellers, Agency Member

WEDNESDAY, JANUARY 19, 2005

AGENDA

JOINT MEETING

CITY COUNCIL SPECIAL AND REGULAR MEETING

and

REDEVELOPMENT AGENCY SPECIAL MEETING

6:00 P.M.

A Special Meeting of the City Council and Redevelopment Agency is Called at 6:00 P.M. for the Purpose of Conducting Closed Sessions.

Dennis Kennedy, Mayor/Chairman

CALL TO ORDER

(Mayor/Chairperson Kennedy)

ROLL CALL ATTENDANCE

(City Clerk/Agency Secretary Torrez)

DECLARATION OF POSTING OF AGENDA

Per Government Code 54954.2

(City Clerk/Agency Secretary Torrez)

6:00 P.M.

City Council Action and Redevelopment Agency Action

CLOSED SESSION:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Sections 54956.9(b) & (c)
Number of Potential Cases: 2

2.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code section 54956.9(a)
Case Name: City of Morgan Hill v. VBN Corporation and ABSG Consulting, Inc.
Court/Case Number: Santa Clara County Superior Court, Case Number 1-03-CV-008266.

3.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Authority: Pursuant to Government Code 54956.9(a)
Case Name: City of Morgan Hill v. Tanya J. Keppler
Case Number: Santa Clara County Superior Court, Case No. 1-04-CV-016682

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

RECONVENE

CLOSED SESSION ANNOUNCEMENT

7:00 P.M.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PRESENTATIONS

Peak Performance Awards
Challenge Award - Kevin Higgins
Innovation Award - Steve Pendleton
Professional Growth Award - Karen Nelson
Teamwork Award - Aquatics Center Opening:
Serjio Jauragi, Theresa Magno, Shelly Yowell, Aaron Himelson and Julie Spier
Employee of the Year - Patti Yinger
Director of Human Resources Fisher

Introduction of New Police Staff

Elizabeth Reese
Jamie Pereira
Kyle Christensen
Dawnelle Jackson
Bill Norman
Police Chief Cumming

Introduction of Police Department Centennial Badges

Police Officers Ken Howard and David Ray
Police Chief Cumming

PROCLAMATIONS

Blood Donor Month
Ms. Lemberger and Ms. Knopf

CITY COUNCIL REPORT
Mayor Pro Tempore Tate

CITY COUNCIL SUB-COMMITTEE REPORTS

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

PUBLIC COMMENT

NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.
(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND
PRESENT IT TO THE CITY CLERK.**
(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY
COUNCIL/REDEVELOPMENT AGENCY.**

City Council Action

CONSENT CALENDAR:

ITEMS 1-10

The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

Time Estimate
Consent Calendar: 1 - 10 Minutes

Page

1. **SECOND AMENDMENT TO CABLE FRANCHISE AGREEMENT**.....9
Recommended Action(s): Authorize the City Manager to Execute the Second Amendment to Cable Television Franchise Agreement.
2. **APPROVE CHANGE ORDER FOR SIGNING AND STRIPING FOR CLASS II BIKEWAYS PROJECT**13
Recommended Action(s):
 1. Approve Change Order in the Amount of \$14,500 for Additional Striping and Removal Along Butterfield Boulevard and Portions of Dunne Avenue to Comply with Class II Bike Lane Requirements; and
 2. Appropriate \$14,500 from the Current Year Public Facilities 346 Fund (Measure C CIP) Balance to Cover Costs Associated with this Change Order.
3. **ACCEPTANCE OF SIDEWALK IMPROVEMENTS ALONG THE NORTH SIDE OF EDMUNDSON AVENUE FROM COMMUNITY PARK TO MONTEREY ROAD**14
Recommended Action(s):
 1. Accept as Complete the Sidewalk Addition (Edmundson/Monterey) Project in the Final Amount of \$55,349; and
 2. Direct the City Clerk to File the Notice of Completion with the County Recorder's Office.
4. **APPROVE WATER METER SOLE SOURCE PURCHASE**16
Recommended Action(s):
 1. Approve Purchase of Water Meters, Meter Parts and MXU's (Radio Transmitters) from Invensys Metering Systems; and
 2. Approve Purchase Order of \$299,300 to Invensys Metering Systems for the Annual Supply of Water Meters, Meter Parts and MXUs.
5. **SECOND AMENDMENT TO CONSULTANT SERVICES AGREEMENT FOR JACKSON OAKS BOOSTER STATION**20
Recommended Action(s): Approve Second Amendment to the Agreement with Freitas Engineering for Design and Construction Services on the Jackson Oaks Booster Station, Increasing the Contract Amount by \$6,000; Subject to Review and Approval of the City Attorney.
6. **AMENDMENT OF BANKING SERVICES AGREEMENT**21
Recommended Action(s): Authorize the City Manager to Amend the Agreement with South Valley National Bank to Continue Banking Services through December 31, 2005, Subject to Review and Approval by the City Attorney.
7. **CO-HOST REQUEST FOR THE FAR WESTERNS CHAMPIONSHIPS SWIM MEET**22
Recommended Action(s): Direct Staff to Co-Host the Far Westerns Championships Swim Meet as Outlined in the Report.
8. **ADOPT ORDINANCE NO. 1705, NEW SERIES**23
Recommended Action(s): Waive the Reading, and Adopt Ordinance No. 1705, New Series, and Declare That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1680 NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-02-03: TILTON-GLENROCK (APNS 764-9-06, 16, 17, 32 & 33).**

	Time Estimate	Page
	Consent Calendar: 1 - 10 Minutes	
9.	<u>ADOPT ORDINANCE NO. 1706, NEW SERIES, AS AMENDED</u>	27
	Recommended Action(s): <u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1706, New Series, As Amended, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO THE ZONING DESIGNATION OF A 4.8-ACRE AREA FROM R2(3,500) AND CG, GENERAL COMMERCIAL TO R3/RESIDENTIAL PLANNED DEVELOPMENT (RPD) AND ADOPTING A PRECISE DEVELOPMENT PLAN FOR A 67-UNIT MULTI-FAMILY PROJECT LOCATED BETWEEN MONTEREY ROAD AND DEL MONTE AVENUE, NORTH OF WRIGHT AVENUE (APNs 764-12-008, -009, -018, & -019)/(ZA-04-18: MONTEREY – SOUTH COUNTY HOUSING).	
10.	<u>ADOPT ORDINANCE NO. 1707, NEW SERIES</u>	32
	Recommended Action(s): <u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No.1707, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT FOR APPLICATION MP-04-02: MONTEREY – SOUTH COUNTY HOUSING (ROYAL COURT) (APNs 764-12-008, -009, -018, & -019)/(DA-04-07: MONTEREY – SOUTH COUNTY HOUSING).	

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

ITEMS 11-15

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	Consent Calendar: 1 - 10 Minutes	
11.	<u>DEPOT STREET CAPITAL GRANT ACCEPTANCE</u>	51
	Recommended Action(s): 1. <u>Adopt</u> Resolution Accepting the Metropolitan Transportation Commission's Transportation for Liveable Communities Capital Grant to Improve Depot Street; and 2. <u>Appropriate</u> \$341,314 from Fund 317's Balance to Provide the Grant's Required Match.	
12.	<u>LOAN FOR THE ISAACSON GRANARY</u>	55
	Recommended Action(s): <u>Approve</u> Request from Charles Weston and Lesley Miles to Convert Amortized Payments to Interest-Only Payments for a Five Month Period Beginning in January 2005 Thru May 2005.	
13.	<u>ADDITIONAL LOAN FOR OFF-SITE IMPROVEMENTS FOR DAY WORKER CENTER PROJECT</u>	56
	Recommended Action(s): <u>Authorize</u> the Executive Director to Prepare and Execute all the Necessary and Appropriate Legal Documents, Subject to Agency Counsel Review, Needed to Provide an Additional \$15,000 Loan to Charles Weston and Lesley Miles to Construct the Offsite Improvements Related to the Day Worker Center Project.	
14.	<u>APPROVE JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF DECEMBER 15, 2004</u>	57

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| 15. | <u>APPROVE JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF DECEMBER 15, 2004</u> | 59 |
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Redevelopment Agency Action

CONSENT CALENDAR:

ITEM 16

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	Consent Calendar: 1 - 10 Minutes	

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| 16. | <u>ANNUAL STATE REDEVELOPMENT REPORTS FOR FISCAL YEAR 2003-2004</u>
<u>Recommended Action(s):</u> File the 2003-2004 Redevelopment Agency's Annual Report of Financial Transactions, Housing Annual Report of Housing Activity, and Property Report. | 104 |
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City Council Action (Continued)

CONSENT CALENDAR:

ITEM 17

	Time Estimate	Page
	Consent Calendar: 1 - 10 Minutes	

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| 17. | <u>APPROPRIATE FUNDS FOR THE SAFE ROUTES TO SCHOOL GRANT PROJECT (CENTRAL-MONTEREY PEDESTRIAN IMPROVEMENTS)</u>
<u>Recommended Action(s):</u> <u>Appropriate</u> \$47,000 in Funds from Unappropriated Traffic Impact Fee Fund Balance to Cover the City's 20% Funding Contribution for this Project. | 106 |
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City Council Action

PUBLIC HEARINGS:

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| 18. | 5 Minutes | <u>RESOLUTION AUTHORIZING THE SANTA CLARA COUNTY DEPARTMENT OF AGRICULTURE AND RESOURCE MANAGEMENT TO ABATE WEEDS</u>
Public Hearing Opened.
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed
Council Discussion.
Action- <u>Adopt</u> Resolution Authorizing the Santa Clara County Department of Agriculture and Resource Management to Abate Weeds. | 107 |
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PUBLIC HEARINGS:

	Time Estimate		Page
19.	5 Minutes	<u>DEVELOPMENT AGREEMENT, DA-04-06: COCHRANE-BORELLO</u> Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <u>Motion to Waive</u> the Reading in Full of Development Agreement Ordinance. Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote)	122
20.	60 Minutes	<u>GENERAL PLAN AMENDMENT, GPA-04-07/ ZONING AMENDMENT, ZA-04-14: CITY OF MORGAN HILL – DOWNTOWN PLAN</u> Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <u>Adopt</u> Mitigated Negative Declaration. Action- <u>Adopt</u> Resolution Approving General Plan Text Amendments. Action- <u>Adopt</u> Resolution Approving General Plan Land Use Map Amendments for Three Separate Areas within the Downtown Area. Action- <u>Motion to Waive</u> the Reading in Full of Ordinance Incorporating an R-4 Multi-Family High Density Residential District into the Morgan Hill Municipal Code. Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote) Action- <u>Motion to Waive</u> the Reading in Full of Ordinance Amending the City’s Zoning Map on Three Separate Areas within the Downtown Area. Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote) Action- <u>Motion to Waive</u> the Reading in Full of Ordinance Designating Seven Parcels, Including the “Sunsweet Property”, as a PUD. Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote) Action- <u>Motion to Waive</u> the Reading in Full of Ordinance Amending Chapter 18.50 of the Morgan Hill Municipal Code, Off-Street Parking and Paving Standards. Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote)	125
21.	30 Minutes	<u>GENERAL PLAN AMENDMENT, GPA-04-04/ ZONING AMENDMENT, ZA-04-10: MONTEREY ROAD-MORGAN HILL MEDICAL</u> Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <u>Adopt</u> Resolution Denying General Plan Amendment Request. Action- <u>Adopt</u> Resolution Denying Zoning Amendment Request.	154
22.	15 Minutes	<u>GENERAL PLAN AMENDMENT, GPA-04-08/ ZONING AMENDMENT, ZA-04-20: TENNANT-HUANG</u> Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <u>Approve</u> Mitigated Negative Declaration. Action- <u>Adopt</u> General Plan Amendment Resolution. Action- <u>Motion to Waive</u> the Reading in Full of Ordinance. Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote)	158

City Council Action

OTHER BUSINESS:

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23.	30 Minutes	<u>COUNCIL REVIEW OF DOWNTOWN TRAFFIC CALMING OPTIONS</u>	163
		<u>Recommended Action(s):</u>	
		1. <u>Proceed</u> with Option A; and	
		2. <u>Provide Direction</u> to Staff Regarding Options A4(a) and A4(b).	
24.	10 Minutes	<u>INSURANCE REQUIREMENTS FOR IMPROVEMENT AND SUBDIVISION IMPROVEMENT AGREEMENTS</u>	165
		<u>Recommended Action(s):</u>	
		1. <u>Approve</u> Policy Changes Concerning Insurance Requirements for Improvement and Subdivision Improvement Agreements ; and	
		2. <u>Direct</u> Staff to Include Policy Requirements in New Improvement and Subdivision Improvement Agreements, subject to City Attorney Review and Approval.	
25.	15 Minutes	<u>DOWNTOWN AREA BUILDING ALLOTMENT</u>	172
		<u>Recommended Action(s): Council Discretion.</u>	
26.	10 Minutes	<u>REVIEW OF CITY COUNCIL COMMITTEES AND APPOINTMENTS TO OUTSIDE AGENCIES</u>	173
		<u>Recommended Action(s):</u>	
		1. <u>Review</u> the Current List of Assignments and Appointments and Make Suggested Changes to the Mayor;	
		2. Mayor to <u>Appoint</u> Council Members to Serve on the Various Council Committees and Outside Agencies, Subject to City Council Approval; and	
		3. <u>Direct</u> the City Clerk to Notify the Appropriate Agencies of Amended Assignments.	

Redevelopment Agency Action

OTHER BUSINESS:

	Time Estimate		Page
27.	20 Minutes	<u>DOWNTOWN REQUEST FOR PROPOSAL (RFP): GRANADA THEATER AND GUNTER BROTHERS GRANARY</u>	175
		<u>Recommended Action(s):</u>	
		1. <u>Direct Staff</u> to Negotiate Agreements with the Developer/Theater Operator and the Landlord for the Granada Theater in an Amount Not to Exceed \$1,060,000, Subject to Review and Approval of Agency Counsel;	
		2. <u>Direct Staff</u> to Negotiate an Agreement with the Developers of the Gunter Brothers Project in an Amount Not to Exceed \$363,000, Subject to Review and Approval of Agency Counsel;	
		3. <u>Direct Staff</u> to Work With Glenrock to Revise its Proposal to more closely meet the Goals of the Downtown Plan; and	
		4. <u>Direct Staff</u> to Work with the Developer/Operator of Booksmart/Thinker Toys to Encourage a Joint Venture with one of the Property Owners along the Third Street Block for the Relocation and Expansion of the Business.	

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

ADJOURNMENT



CITY COUNCIL STAFF REPORT

MEETING DATE: January 19, 2005

SECOND AMENDMENT TO CABLE FRANCHISE AGREEMENT

RECOMMENDED ACTION(S): Authorize the City Manager to Execute the Second Amendment to Cable Television Franchise Agreement

EXECUTIVE SUMMARY: In 1998, the City entered into a cable television franchise agreement that provides modest funding to support the public and governmental access television services provided to the community. The amount provided is adjusted annually to reflect changes in the Bay Area Consumer Price Index. These adjustments nearly always result in the support amount not equaling a whole cent. These partial cent charges are naturally difficult to deal with and have complicated the City's relationship with Charter Cable.

While staff had previously worked with Charter Cable to round the payments up or down to the nearest whole cent, a change in Charter management staff eliminated this informal arrangement and necessitated the attached Second Amendment to Cable Television Franchise Agreement. The sole purpose for the Amendment is to formalize how to address partial cent payments. In particular, the inserted language says:

“This increase shall be rounded up or down to the nearest full cent. In the event of a calculation equaling exactly one-half of a cent, the increase shall be rounded down.”

Staff recommends that the City Council authorize the City Manager to execute the Franchise Amendment.

FISCAL IMPACT: No budget adjustment is requested at this time.

Agenda Item #1

Prepared By:

Program Administrator

Approved By:

Public Works Director

Submitted By:

City Manager

SECOND AMENDMENT TO CABLE
TELEVISION FRANCHISE AGREEMENT
BETWEEN THE CITY OF MORGAN HILL AND
FALCON CABLE SYSTEMS COMPANY II, L.P. d/b/a CHARTER
COMMUNICATIONS

This Second Amendment to Franchise Agreement is entered into this ____ day of _____, 2005 at Morgan Hill, California, by the City of Morgan Hill, a municipal corporation ("Grantor") and Charter Communications Holding Company, LLC ("Grantee").

RECITALS

A. On November 4, 1998, Grantor approved and entered into a renewed franchise agreement (the "Franchise Agreement") with Grantee to construct, reconstruct, operate and maintain a cable television system in the City of Morgan Hill.

B. In implementing the renewed Franchise Agreement, the parties desire to make amendments to clarify provisions of the franchise relating to the establishment of subscriber rates and payment of PEG access contributions.

NOW, THEREFORE, the parties agree as follows:

Section 1. Subsection 6.3(b) of the Franchise Agreement is amended to read:

(b). In addition to the one-time payment provided by Subsection 6.3(a) above, Grantee will pay to Grantor the sum

of \$0.40 (forty cents) per subscriber per month commencing on the first full month after the effective date of this Agreement for the support of public, educational, or governmental access activities. Grantor may increase the per subscriber contribution by Grantee to \$0.50 (fifty cents) per month three (3) years after the effective date of this Agreement. In addition, the per subscriber monthly rate shall be increased on an annual basis by any increase in the Consumer Price Index for San Francisco-Oakland-San Jose, California CPIU, during the preceding twelve (12) month period. This increase shall be rounded up or down to the nearest full cent. In the event of a calculation equaling exactly one-half of a cent, the increase shall be rounded down. The per subscriber monthly contribution shall be paid by Grantee to Grantor on a quarterly basis with the payment due within fifteen days after the close of each quarter (i.e., January 15, April 15, July 15, and October 15). Grantor shall prepare an annual budget which describes how such payments will be used during the following year.

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Section 2. Except as expressly amended by this First Amendment, all provisions of the Franchise Agreement shall remain in full force and effect.

| APPROVED AS TO FORM:

CITY OF MORGAN HILL

City Attorney

By: _____
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

CHARTER COMMUNICATIONS HOLDING
COMPANY, LLC

Corporate Counsel

By:

Title:

By:

Title:



CITY COUNCIL STAFF REPORT

MEETING DATE: JANUARY 19, 2005

APPROVE CHANGE ORDER FOR SIGNING AND STRIPING FOR CLASS II BIKEWAYS PROJECT

RECOMMENDED ACTION(S):

1. Approve Change Order in the amount of \$14,500 for additional striping and removal along Butterfield Boulevard and portions of Dunne Avenue to comply with Class II bike lane requirements.
2. Appropriate \$14,500 from the current year Public Facilities 346 Fund (Measure C CIP) balance to cover costs associated with this change order.

EXECUTIVE SUMMARY:

On October 27, 2004, City Council Awarded the Signing and Striping for Class II Bikeways grant project to Linear Options, Inc. for \$57,453, which includes a 10% contingency of \$5,223. The scope of the work for this project includes installing class II bike lane striping and markings along portions of Monterey Road, Cochrane Road, Sutter Boulevard, Butterfield Boulevard, and Dunne Avenue. All of the above work is included in the Bikeways Master Plan.

Upon initial project layout by the Contractor, it was discovered that additional removal of existing striping was necessary. It is estimated that the additional amount of striping to be removed equates to approximately \$4,700. In addition, Staff has been notified that the shoulder bike lane striping must be upgraded for the entire length of Butterfield Boulevard and portions of Dunne Avenue to meet Caltrans class II bike lane standards. This has added an additional \$9,800 of unanticipated striping.

Linear Options, Inc. has agreed to perform the extra work for the amounts stated above; therefore, Staff recommends that Council approve the change order and appropriate \$14,500 to cover the associated costs. With the delay related to this change order, construction is scheduled to begin immediately after Council approval and be completed in March 2005, excluding weather delays.

FISCAL IMPACT: The total construction cost for this project (#533004) is now \$71,953 (verses \$57,453), which retains the original 10% contingency of \$5,223. On October 27, 2004, City Council appropriated \$40,000 from the un-appropriated Street Fund balance to cover non-grant related costs and Staff estimates that there should be sufficient funds to cover the remaining tasks of inspection and project management for this project. With the approved maximum grant amount of \$70,000, It is estimated that the City's total contribution towards this project will now be \$54,500, of which the additional \$14,500 will be funded by the current year un-appropriated Measure C CIP Fund balance.

Agenda Item # 2

Prepared By:

Associate Engineer

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: January 19, 2005

ACCEPTANCE OF SIDEWALK IMPROVEMENTS ALONG THE NORTH SIDE OF EDMUNDSON AVE. FROM COMMUNITY PARK TO MONTEREY ROAD

RECOMMENDED ACTION(S):

1. Accept as complete the Sidewalk Addition (Edmundson/Monterey) Project in the final amount of \$55,349.
2. Direct the City Clerk to file the attached Notice of Completion with the County Recorder's office.

EXECUTIVE SUMMARY:

The City applied for and received a TDA Article 3 grant for the construction of new sidewalk along the north side of Edmundson Ave. from Community Park to Monterey Road. The contract for the Sidewalk Addition at Edmundson/Monterey Project was awarded to Link Construction, Inc., by the City Council at their August 18, 2004, meeting in the amount of \$63,120. The project resulted in 5,430 SF of sidewalk and the addition of two handicap access ramps (see attached location map).

The work has been completed in accordance with the plans and specifications.

FISCAL IMPACT:

The allocated project construction cost including a 10% contingency was \$69,432. The contract was awarded in the amount of \$63,120 and the final contract price is \$55,349. Staff will request reimbursement through the TDA Article 3 grant program in the amount of \$53,642. The remainder of the construction cost (\$1,707) will be funded from CIP Project No. 229001 (Community Indoor Recreation Center). Therefore, no further appropriations are necessary.

Agenda Item #3

Prepared By:

Assistant Engineer

Approved By:

Public Works Director

Submitted By:

City Manager

Record at the request of
and when recorded mail to:

CITY OF MORGAN HILL
CITY CLERK
17555 Peak Avenue
Morgan Hill, CA 95037

RECORD AT NO FEE PURSUANT TO GOVERNMENT CODE SECTION 27383

NOTICE OF COMPLETION
CITY OF MORGAN HILL

Sidewalk Addition at Edmundson/Monterey Project

NOTICE IS HEREBY GIVEN, pursuant to Section 3093 of the Civil Code of the State of California, that the Director of Public Works of the City of Morgan Hill, California, on the 19th day of January, 2005, did file with the City Clerk of said City, the contract for performing work which was heretofore awarded to Link Construction Inc., on August 18, 2004, in accordance with the plans and specifications for said work filed with the City Clerk and approved by the City Council of said City.

That said improvements were substantially completed on December 1, 2004, accepted by the City Council on January 19, 2005, and that the name of the surety on the contractor's bond for labor and materials on said project is Contractors Bonding and Insurance Company.

That said improvements consisted of the construction and installation of all items of work provided to be done in said contract, all as more particularly described in the plans and specifications therefor approved by the City Council of said City.

Name and address of Owner: City of Morgan Hill
17555 Peak Avenue
Morgan Hill, California

Dated: _____, 2005.

Jim Ashcraft, Director of Public Works

I certify under penalty of perjury that the foregoing is true and correct.

Irma Torrez, City Clerk
City of Morgan Hill, CA
Date:



CITY COUNCIL STAFF REPORT

MEETING DATE: *January 19, 2005*

APPROVE WATER METER SOLE SOURCE PURCHASE

RECOMMENDED ACTION(S):

1. Approve purchase of water meters, meter parts and MXUs (Radio Transmitters) from Invensys Metering Systems
2. Approve purchase order of \$299,300 to Invensys Metering Systems for the annual supply of water meters, meter parts and MXUs

EXECUTIVE SUMMARY: Prior to 1987 our water meters were read by opening each water meter box and water meter, manually reading it, then transferring the data to the Finance Department for billing. In 1987, the City began a program to install TouchRead water meters throughout the City using Sensus (now Invensys) Corporation water meters and TouchRead components. TouchRead technology reduced labor time to read water meters by eliminating the need to open the water meter box for each reading. Readings were recorded electronically by touching a hand-held wand on the top of a meter lid then data was downloaded directly into our billing system thus saving significant labor costs.

Water meter reading continues to advance technologically. A new system known as "Radio Read" became available making it possible to convert our system by adding a radio transmitter to each meter unit. This made it possible to read each meter by the use of a lap top computer in a vehicle recording meter readings while driving as far as two blocks away. This provided for even more labor cost savings.

To analyze the benefit of converting to the Invensys Radio Read System a pilot program was initiated in 2001 which converted 400 touch read meters to radio read. The new technology proved to be very effective saving labor time for meter reading. An additional 1000 meter conversions to Radio Read per year have been accomplished between years 2002-2004 in the more difficult to access hillside areas. To date approximately 4000 of our 11,000 water meters have been converted to Radio Read Technology. This has resulted in reducing the time to read the hillside areas of Jackson Oaks and Woodland from 1 week for 2 meter readers to 3 hours for 1 meter reader. This has allowed for increasing our maintenance of other parts of our water system, IE: water valve exercising, meter calibration, and fire hydrant maintenance. The remaining 7000 water meters in our system not yet converted to Radio Read Technology are manufactured by Invensys and currently have touch read capability. To convert them to Radio Read we must purchase and install approximately 7000 radio transmitters called "MXU's" at a cost of \$135 each.

The attached memo from Deputy Department Director, Mori Struve to Director of Public Works, Jim Ashcraft dated January 7, 2005 evaluates the financial and practical aspects of converting the remaining 7000 water meters to radio read technology. Section 3.04.120 of the Municipal Code allows the City to purchase brand names or equal specifications when the "Purchasing Officer determines that the use of brand name or equal specification is in the City's best interests". In addition, Section 3.04.150 of the Municipal Code provides that the City Council may approve a purchase where the "Purchasing Officer determines that there is only one source to the required supply or service". The Finance Director has made the above two determinations. Staff recommends continuing to standardize our water meter reading system by continuing to purchase Invensys' meters and radio read component parts.

FISCAL IMPACT: This purchase is budgeted in the FY 2004-05 Meter Division (650-43897-5720).

Agenda Item # 4

Prepared By:

Deputy Director Public Works/Operations

Approved By:

Department Director

Submitted By:

City Manager



Memorandum

Public Works Department

Date: January 7, 2005

To: Jim Ashcraft, Public Works Director

From: Mori Struve, Deputy Public Works Director

Subject: Continued Standardization of our Water Meter Reading System

In 2005 we enter the 5th year of a 10 year program to convert our water meter reading system to radio read technology. To insure that the City receives the optimal benefit both financially and practically in completing this conversion, it is important that we continue to analyze alternative ways to continue the conversion process.

In 1987 the City initiated a conversion program of our manual water meter reading system to touch read technology. The conversion from a manual reading system to a touch read system included both the purchase and installation of the component parts to achieve the touch read capability and the purchase of Sensus Technologies, now known as Invensys Metering Systems, water meters city-wide in an effort to standardize our water meter system. Standardization was important to insure compatibility between water meters, touch read components, and billing software.

By 1995 all City water meters had been converted to touch read capability using Invensys water meters, touch read component parts and a compatible billing software to allow efficient downloading of collected data from the collection hardware to the financial billing system. This greatly enhanced the efficiency of our water meter reading and billing system.

Technology continued to advance in water meter reading systems. The technology known as "Radio Read" became available. Radio read technology allowed for the collection of water meter data using a lap top computer while driving in a vehicle thus eliminating the need for the labor to physically access the water meter. The computer was capable of reading water meters up to two blocks away by receiving a radio transmission from a transmitter placed in the water meter box.

In 2001 the City initiated a 10 year program to convert all touch read water meters to radio read. In the Jackson Oaks and Woodland hillside areas where the touch read radio read system had required two meter readers utilizing two vehicles one week to read meters, now the same amount of water meters could be read in 3 hours with one meter reader aided by a lap top computer and one vehicle. This time savings allows for a more comprehensive maintenance program of all city water facilities. Water meter personnel can be utilized for the exercising of water valves and increased maintenance of fire hydrants. In addition to increased maintenance, the labor time savings has allowed for the creation of a revenue generating program to calibrate existing water meters checking their efficiency. Water meters which are found to be reading inaccurately are replaced, thus generating revenue otherwise lost due to worn or defective water meters.

We are now entering the 5th year of the 10 year program to convert all touch read water

meters to Radio Read. To date approximately 4,000 of the 11,000 city wide water meters have been converted to radio read consistent with the touch read conversion program initiated in 1987. To achieve system-wide standardization Invensys water meters and radio read component products were used to convert the 4000 water meters. The remaining 7000 water meters, presently touch read capable, are also Invensys products. For each year of the 10 year Radio Read Conversion Program staff continues to analyze the cost and practical benefits of continuing to purchase solely the Invensys products to complete the conversion of the remaining 7000 touch read water meters. It is possible to create a water meter system using different manufacturers for water meters, radio read components, data collection hardware and software, and billing software. Prices for these various products do vary among manufacturers. To insure optimal financial and practical benefit to the City below is a comparative analysis of continuing to use solely Invensys products vs. mixing other vendors radio transmitters and supporting software products with the existing Invensys water meters to complete the City's 10 year Water Meter Radio Read Conversion Program.

Both the meter and radio transmitter for the 4000 meters already converted to Radio Read Technology is manufactured by Invensus. To convert the remaining 7000 Touch Read meters to Radio Read using other than Invensus components, another manufacturer's radio transmitter would have to be purchased and installed on the Invensus meter. More than one manufacturer offers us this option. Staff has received cost estimates from three of the larger water meter manufactures for the radio transmitters; The Badger, Hersey and Neptune Companies. Prices obtained for the transmitters vary from \$72, \$80, and \$130 respectively. These hybrid systems would be compatible with our current billing software, however, in each case additional software would have to be purchased to read and collect the data from the meters. Depending on how many additional manufacturers are utilized, two or more inventories for component parts would also have to be kept to provide replacement parts for damaged or defective components.

Creating a hybrid system to convert the remaining 7000 water meters to radio read, would result in at least two separate systems. One system would consist of the existing 4000 water meters already converted to Radio Read Technology using Invensus water meters and radio read components. Data reading and collecting would be accomplished with the current hardware and software we have for this purpose. The other system or systems would be comprised of the existing Invensys meters combined with one or more type of radio transmitters depending on the manufacturer used. For this hybrid system additional software would have to be purchased to read, collect, and download data to our billing software. Due to the sunk cost of Invensys water meters already installed, staff recommends that it is not practical or cost effective to consider removing any of the existing 7000 Invensys water meters to replace them with a less expensive water meter and radio read unit manufactured by a vendor other than Invensys.

The costs to create a hybrid vs. standardized system are as follows:

Hybrid System:

Cost to convert 7000 existing Invensus meters to Radio Read using a competitor's radio transmitter	
\$504,000-910,000	\$72-130 ea for the new vendor's equivalent radio transmitter. Includes training. The cost varies depending on the manufacturer
\$9000	New data collection software
\$513,000-\$919,000	Total Cost

Standardized System:

Convert the 7000 existing Invensys meters adding MXU (Radio Transmitters)	
Note: Only 6000 radio transmitters would have to be purchased to make the 7000 conversions. A feature unique to Invensys products is the capability to use one radio transmitter for multiple meters. Staff has considered this to estimate the 6000 radio transmitters needed.	
\$810,000	\$135 ea for Invensys radio transmitter
\$810,000	Total Cost

The cost to continue to standardize our water meter system and complete the conversion program to all radio read is within the cost range for using other manufacturer's radio transmitters. Additional benefits of continuing to standardize our water meter system using Invensys products are as follows:

1. Changing to a competitor's water meter or radio read components will require using a second radio frequency which requires the creation of two types of routes and transceiver devices in each meter reading vehicle.
2. Invensys Technologies have provided excellent support and product warranty service to the City.
3. Training time required for Invensys has been completed. Changing products now would require additional training for both field and administrative personnel.
4. The price stability of the Invensys radio read unit has been excellent. There has been no price increase over the last four years.
5. Since the initiation of the radio read program in 2000-2001 the Invensys Technology product has increased its warranty from 5 to 20 years for the battery life at no additional cost to the City.
6. Adding another vendor to supply radio read units will require two product support systems to service the City's needs.
7. Having two meter reading systems will require the stocking of dual inventories of replacement parts.

Section 3.04.120 of the Municipal Code allows the City to purchase brand names or equal specifications when the "Purchasing Officer determines that the use of brand name or equal specification is in the City's best interests". In addition, Section 3.04.150 of the Municipal Code provides that the City Council may approve a purchase where the "Purchasing Officer determines that there is only one source to the required supply or service". The Purchasing Officer (Finance Director) has made the above two determinations.

The City purchases Invensys products directly from Sensus Metering Systems or their West Coast Distributor, Golden State Flow Measurement. The cost is the same from either source. This Western Area Price Index is the lowest cost offered to all municipalities in the Western United States. Other Bay Area municipalities which also purchase Invensys products at this cost are the cities of: Gilroy, Watsonville, Santa Cruz, and Vallejo.



CITY COUNCIL STAFF REPORT

MEETING DATE: *January 19, 2005*

SECOND AMENDMENT TO CONSULTANT SERVICES AGREEMENT FOR JACKSON OAKS BOOSTER STATION

RECOMMENDED ACTION(S): Approve second amendment to the agreement with Freitas Engineering for design and construction services on the Jackson Oaks Booster Station, increasing the contract amount by \$6,000.

EXECUTIVE SUMMARY: On July 10, 2002, the City entered into a contract to design a new booster station to replace the obsolete and inefficient existing Jackson Oaks Booster Station. The Council approved an amendment to the agreement on April 21, 2004 primarily to incorporate the Architectural Review Board's plan review comments. This second amendment will authorize the additional time required by Freitas + Freitas Engineering and Planning Consultants, inc. to incorporate the City's new SCADA requirements and to fully support staff on construction submittal reviews. The bid for this project was awarded on October 27, 2004 for a total cost including contingency of \$ 1,128,627. The contractor has been given a notice to proceed and construction is scheduled to be completed by August, 2005. The additional work by Freitas + Freitas Engineering increases their amended not-to-exceed fee from \$83,000 to \$89,000.

FISCAL IMPACT: The reconstruction of the Jackson Oaks Booster Station is approved within the City's CIP budget, (Project Number 607A98).

Agenda Item # 5

Prepared By:

Senior Engineer

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: January 19, 2005

Agenda Item # 6

Prepared By:

**Assist Finance Director
Approved By:**

Finance Director

Submitted By:

City Manager

BANKING SERVICES AGREEMENT-AMENDMENT

RECOMMENDED ACTION(S): *Authorize the City Manager to amend the agreement with South Valley National Bank to continue banking services through December 31, 2005, subject to review and approval by the City Attorney.*

EXECUTIVE SUMMARY: The City of Morgan Hill and South Valley National Bank entered into a services agreement in June 1999 for South Valley to provide banking services to the City for a period of five years. The contract has expired. South Valley National Bank has provided excellent customer service and staff has been pleased with the professional relationship. South Valley National Bank has agreed to waive accumulated fees and extend the contract through December 2005 at a fixed earnings rate of 2.25% (currently at 1.95%). In addition, the proposal from South Valley National Bank would increase pricing from a discounted rate to their standard rates (per item pricing).

Later this calendar year, staff will be preparing a request for proposals for banking services and, based on the results, will recommend to Council a new services agreement to be effective January 1, 2006.

The Finance and Audit Committee approved the staff recommendation to take the amendment to the agreement for banking services to the City Council for their approval.

FISCAL IMPACT: Account earnings are projected to offset the cost for services. No budget adjustment required.



CITY COUNCIL STAFF REPORT

MEETING DATE: January 19, 2005

Agenda Item # 7

Prepared By:

**Manager, Recreation &
Community Services**

Submitted By:

City Manager

CO-HOST REQUEST FOR THE FAR WESTERNS CHAMPIONSHIPS SWIM MEET

RECOMMENDED ACTION(S): Direct staff to Co-host the Far Westerns Championships Swim Meet as outlined in the report.

EXECUTIVE SUMMARY:

The Morgan Hill Swim Club has been successful in their bid to host the Far Westerns Championships Swim Meet at the Aquatic Center on March 31-April 3, 2005. This swim meet is anticipated to attract 1,300 swimmers from over 130 teams. The City will have swimming visitors from Canada, Idaho, Arizona, New Mexico, Nevada, as well as from all over the state of California.

The Morgan Hill Swim Club is requesting that Council consider being a co-host of the event. To be considered a co-host, the Morgan Hill Swim Club would like the City to host a reception for visiting coaches and officials the Wednesday prior to the event at the Aquatics Center.

Recreation & Community Services Manager and the Aquatics Supervisor support this request as this provides a marketing opportunity to showcase the facility and demonstrate our ability and desire to host more swim meets of this caliber during the operating off-season of the facility.

FISCAL IMPACT: No budget adjustment required as will be incorporated in the marketing budget allocation.



CITY COUNCIL STAFF REPORT

MEETING DATE: January 19, 2005

Agenda Item # 8

Prepared By:

Deputy City Clerk

Approved By:

City Clerk

Submitted By:

City Manager

ADOPT ORDINANCE NO. 1705, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1680 NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-02-03: TILTON-GLENROCK (APNS 764-9-06, 16, 17, 32 & 33)

RECOMMENDED ACTION(S):

Waive the Reading, and **Adopt** Ordinance No. 1705, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

On December 15, 2004, the City Council Introduced Ordinance No. 1705, New Series, by the Following Roll Call Vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

FISCAL IMPACT:

No budget adjustment required.

ORDINANCE NO. 1705, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1680, NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-02-03: TILTON-GLENROCK (APNS 764-9-06, 16, 17, 32 & 33)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 36 building allocations for fiscal year 2004-2005 to that certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP-02-03: TILTON-GLENROCK	36

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill.

These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to is amended by this ordinance and shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development agreement amendment approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

SECTION 9. MODIFICATION TO DEVELOPMENT SCHEDULE. The Council hereby approves an amendment to the development schedule for Phase 6 of the Capriano project, as attached in Exhibit B, and by this reference incorporated herein.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 15th Day of December 2004, and was finally adopted at a regular meeting of said Council on the 19th Day of January 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

⌘ CERTIFICATE OF THE CITY CLERK ⌘

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1705, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 19th Day of January 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

Development Agreement Amendment DAA 04-01: Tilton-Glenrock

REVISED EXHIBIT "B"

DEVELOPMENT SCHEDULE MP-02-03: Tilton-Glenrock

FY 2004-05 24 allocations

I.	SUBDIVISION AND ZONING APPLICATIONS	
	Applications Filed:	01-16-04
II.	SITE REVIEW APPLICATION	
	Application Filed:	01-16-04
III.	FINAL MAP SUBMITTAL	
	Map, Improvements Agreement and Bonds:	07-30-04
IV.	BUILDING PERMIT SUBMITTAL	
	Submit plans to Building Division for plan check: FY 2004-05 (24 units)	08-15-04
V.	BUILDING PERMITS	
	Obtain Building Permits: FY 2004-05 (24 units)	09-30-04 03-30-05
	Commence Construction: FY 2004-05 (24 units)	06-30-05

Failure to obtain building permits and commence construction by the dates listed above, shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit six (6) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 12 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.



CITY COUNCIL STAFF REPORT

MEETING DATE: January 19, 2005

Agenda Item # 9

Prepared By:

Deputy City Clerk

Approved By:

City Clerk

Submitted By:

City Manager

ADOPT ORDINANCE NO. 1706, NEW SERIES, AS AMENDED

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO THE ZONING DESIGNATION OF A 4.8-ACRE AREA FROM R2(3,500) AND CG, GENERAL COMMERCIAL, TO R3/RESIDENTIAL PLANNED DEVELOPMENT (RPD) AND ADOPTING A PRECISE DEVELOPMENT PLAN FOR A 67-UNIT MULTI-FAMILY PROJECT LOCATED BETWEEN MONTEREY ROAD AND DEL MONTE AVENUE, NORTH OF WRIGHT AVENUE (APNs 764-12-008, -009, -018, & -019)/(ZA-04-18: MONTEREY – SOUTH COUNTY HOUSING)

RECOMMENDED ACTION(S):

Waive the Reading, and **Adopt** Ordinance No. 1706, New Series, As Amended, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

On December 15, 2004, the City Council Introduced Ordinance No. 1706, New Series, As Amended, by the Following Roll Call Vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

FISCAL IMPACT:

None. Filing fees were paid to the City to cover the cost of processing this application.

ORDINANCE NO. 1706, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO THE ZONING DESIGNATION OF A 4.8-ACRE AREA FROM R2(3,500) AND CG, GENERAL COMMERCIAL TO R3/RESIDENTIAL PLANNED DEVELOPMENT (RPD) AND ADOPTING A PRECISE DEVELOPMENT PLAN FOR A 67-UNIT MULTI-FAMILY PROJECT LOCATED BETWEEN MONTEREY ROAD AND DEL MONTE AVENUE, NORTH OF WRIGHT AVENUE (APNs 764-12-008, -009, -018, & -019)/(ZA-04-18: MONTEREY – SOUTH COUNTY HOUSING)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

- SECTION 1.** The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.
- SECTION 2.** The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.
- SECTION 3.** An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A mitigated Negative Declaration was filed with the associated general plan amendment application.
- SECTION 4.** The City Council finds that the proposed RPD Overlay District is consistent with the criteria specified in Chapter 18.18 of the Morgan Hill Municipal Code.
- SECTION 5.** The City Council hereby approves a precise development plan as contained in that certain series of documents date stamped November 16, 2004, on file in the Community Development Department, entitled "Royal Court" prepared by RJA & Associates. These documents, as amended by site and architectural review, show the location and sizes of all lots in this development and the location and dimensions of all proposed buildings, vehicle and pedestrian circulation ways, recreational amenities, parking areas, landscape areas and any other purposeful uses on the project.
- SECTION 6.** Approval of the Royal Court RPD and precise development plan shall allow the deviations identified in the list of Approved Deviations attached hereto as Exhibit "A", and by this reference incorporated herein. Standards not specifically called out shall comply with the site development standards of the R3 zoning district.

- SECTION 7.** The 12 townhomes proposed along the Del Monte Avenue project frontage may be constructed as modified setback dwellings. All modified setback dwellings shall be subject to compliance with Ordinance No. 1641, N.S. and Ordinance No. 1700, N.S.
- SECTION 8.** Of the 137 parking spaces designated on the precise development plan, a minimum of 113 spaces shall be installed with construction of the 54 apartment units. The remaining 24 'reserve parking' spaces shall be provided when determined to be needed by the City as set forth in Sections 9 through 11.
- SECTION 9.** Within six to 12 months of full occupancy of the 54 apartment units, the City shall conduct a parking utilization study during the school year to determine if the 24 reserve parking spaces are needed. Subsequent reviews shall be conducted on an annual basis thereafter.
- SECTION 10.** As part of the parking utilization study, the applicant shall conduct a survey of current residents to determine the number of registered vehicles per unit (operative and non-operative) and the average number of guests per unit on any given day. The City shall also conduct general observations of on-street parking levels within the immediate project vicinity, review Police Report Logs for parking related-incidences, and consult with adjacent neighborhoods to identify potential parking impacts on their neighborhood. A survey shall be mailed to the adjacent neighborhoods for their participation in the parking utilization study.
- SECTION 11.** Upon determination by the City that the reserve parking spaces are needed, the applicant shall install the 24 spaces in accordance with the approved plans.
- SECTION 12.** Upon signing a lease/rental agreement or purchasing a unit within the Royal Court project, all tenants shall sign a disclosure statement acknowledging that the 24-space reserve parking area may be converted from open space to a parking lot in the future, at the full discretion of the City of Morgan Hill.
- SECTION 13.** With the exception of the deviations allowed under Sections 6 through 11 of this Resolution, buildout of the Royal Court project shall comply with the site development standards of the R3 zoning district and the provisions of the Morgan Hill Municipal Code.
- SECTION 14.** Future building additions are prohibited in any yard (front, rear, side) for which a reduced setback was approved by this RPD, unless the additions comply with the site development standards of the R3 zoning district.
- SECTION 15.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 16. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced, as amended, at the regular meeting of the City Council of the City of Morgan Hill held on the 15th Day of December 2004, and was finally adopted at a regular meeting of said Council on the 19th Day of January 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1706, New Series, adopted as amended by the City Council of the City of Morgan Hill, California at their regular meeting held on the 19th Day of January 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

EXHIBIT A

APPROVED DEVIATIONS



CITY COUNCIL STAFF REPORT

MEETING DATE: January 19, 2005

Agenda Item # 10

Prepared By:

Deputy City Clerk

Approved By:

City Clerk

Submitted By:

City Manager

ADOPT ORDINANCE NO. 1707, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT FOR APPLICATION MP-04-02: MONTEREY – SOUTH COUNTY HOUSING (ROYAL COURT) (APNs 764-12-008, -009, -018, & -019)/(DA-04-07: MONTEREY – SOUTH COUNTY HOUSING)

RECOMMENDED ACTION(S):

Waive the Reading, and **Adopt** Ordinance No. 1707, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

On December 15, 2004, the City Council Introduced Ordinance No. 1707, New Series, with amendments to the Development Agreement documents, by the Following Roll Call Vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

FISCAL IMPACT:

None. Filing fees were paid to the City to cover the cost of processing this application.

ORDINANCE NO. 1707, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT FOR APPLICATION MP-04-02: MONTEREY – SOUTH COUNTY HOUSING (ROYAL COURT) (APNs 764-12-008, -009, -018, & -019)/(DA-04-07: MONTEREY – SOUTH COUNTY HOUSING)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 04-41, adopted April 13, 2004, has awarded allotments to a certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP-04-02: Monterey – South County Housing (Royal Court)	56 units (Fiscal Year 2005-06)

SECTION 4. Since April 2004, the applicant has scaled back the size of the project whereby only 54 of the 56 awarded Measure P building allotments are needed for the Royal Court project.

SECTION 5. The applicant has relinquished the two surplus building allotments to be redistributed to other qualified Measure P projects as determined by the Planning Commission.

SECTION 6. With the relinquishment of the two surplus building allotments, only 54 Measure P building allotments are subject to compliance with the provisions of the project development agreement.

SECTION 7. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill.

These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 8. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 9. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 10. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 11. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 15th Day of December 2004, and was finally adopted at a regular meeting of said Council on the 19th Day of January 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ **CERTIFICATE OF THE CITY CLERK** ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1707, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 19th Day of January 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:_____

IRMA TORREZ, City Clerk

RECORD AT NO FEE PURSUANT TO
GOVERNMENT CODE SECTION 6103

Recorded at the request of
and when recorded mail to:

City of Morgan Hill
Community Development Department
17555 Peak Avenue
Morgan Hill, CA 95037

RESIDENTIAL DEVELOPMENT AGREEMENT

This Agreement entered into this _____ day of _____, 2004, by and between **SOUTH COUNTY HOUSING**, under the Agreement, ("Property Owner") and the CITY OF MORGAN HILL, a municipal corporation organized and existing under the laws of the State of California (the "City").

RECITALS

This Agreement predicated upon the following facts:

A. Government Code Sections 65864-65869.5 authorize the City of Morgan Hill to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property;

B. Under Section 65865, the City of Morgan Hill has adopted rules and regulations establishing procedures and requirements for consideration of Development Agreements as contained in Title 18, Chapter 18.80 of the City of Morgan Hill Municipal Code;

C. The parties hereto desire to enter into a Development Agreement and proceedings have been taken in accordance with the City's rules and regulations;

D. The City of Morgan Hill has found that the Development Agreement is consistent with the General Plan and commitments made through the Residential Development Control System of the City of Morgan Hill (Title 18, Chapter 18.78 of the Municipal Code);

E. In light of the substantial commitments required to be made by Property Owner and in exchange for the consideration to be provided to the City by Property Owner as set forth herein, the City desires to give Property Owner assurance that Property Owner can proceed with the project subject to the existing official policies, rules and regulations for the term of this Development Agreement;

F. On _____, 2004, the City Council of the City of Morgan Hill adopted Ordinance No. _____, New Series approving the Development Agreement with the Property Owner, and the Ordinance thereafter took effect on _____, 2004.

NOW, THEREFORE, the parties agree:

1. Definitions. In this Agreement, unless the context otherwise requires:

- (a) "City" is the City of Morgan Hill.
- (b) "Project" is that portion of the development awarded building allotments as part of the Residential Development Control System by the City of Morgan Hill.
- (c) "Property Owner" means the party having a legal or equitable interest in the real property as described in paragraph 3 below and includes the Property Owner's successor in interest.
- (d) "Real Property" is the real property referred to in Paragraph 3 below.

2. Exhibits. The following documents are referred to in this Agreement, attached and made a part by this reference:

- Exhibit "A" - Development Allotment Evaluation
- Exhibit "B" - Development Review and Approval Schedule
- Exhibit "C" - Legal Description of Real Property

In the event there is any conflict between this Development Agreement and any of the Exhibits referred to above, this Development Agreement shall be controlling and superseding.

3. Description of Real Property. The real property which is subject to this Agreement is described in Exhibit "C".

4. Interest of Property Owner. Property Owner represents that he has a legal or equitable interest in the real property.

5. Assignment. The right of the Property Owner under this agreement may not be transferred or assigned unless the written consent of the City is first obtained which consent shall not be unreasonably withheld. The Property Owner shall provide the City with names, address, and phone numbers of the party to whom the property is to be transferred and Property Owner shall arrange an introductory meeting between the new owner, or his agent, and City Staff to facilitate consent of the City.

6. Recordation of Development Agreement. No later than ten (10) days after the City enters into this Agreement, the Clerk of the City shall record an executed copy of this Agreement in the Official Records of the County of Santa Clara. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, successors in interest to the parties to this Agreement; provided, however, that this Agreement shall not be binding upon any consumer, purchaser, transferee, devisee, assignee or any other successor of Property Owner acquiring a completed residential unit comprising all or part of the Project.

7. Relationship of Parties. Property Owner and the City agree that each is not the agent of the other for purposes of this Agreement or the performance hereunder, and Property Owner is an independent contractor of the City.

8. City's Approval Proceedings for Project. On April 13, 2004, the City of Morgan Hill approved a development plan for the real property as part of its Residential Control System Review. This approval is described in proceedings designated File No. MP-04-02: Monterey – South County Housing, on file in the office of Community Development to which reference is made for further particulars. The development plan provides for the development of the property as follows:

Construction of 54 apartment units as approved by the City of Morgan Hill Planning Commission.

9. Changes in Project.

(a) No substantial change, modification, revision or alteration may be made in the approved development plan without review and approval by those agencies of the City approving the plan in the first instance, which approval shall not be unreasonably withheld. No minor changes may be made in the approved development plan without review and approval by the Director of Community Development of the City, or similar representation if the Director is absent or the position is terminated, which approval shall not be unreasonably withheld.

(b) Any change specified herein and approved by this Development Agreement shall be deemed to be an allowable and approved modification to the Development Plan.

(c) In the event an application to change, modify, revise or alter, the development plan is presented to the Director of Community Development or applicable agencies of the City for review and approval, the schedule provided in Exhibit "B" shall be extended for a reasonable period of time as agreed to by the parties hereto to accommodate the review and approval process for such application.

(d) In the event the developer is unable to secure construction liability insurance because the project contains attached dwellings, the developer may convert the attached units into zero lot line or reduced setback detached units, subject to the review and approval of the Architectural Review Board. A zero lot line or reduced setback detached unit is defined as a dwelling physically separated from an adjacent dwelling on a separate lot of record but architecturally connected by a design element to give the appearance of attachment. In order to qualify for zero lot line or reduced setback detached units, evidence shall be provided to the City that the developer is unable to obtain construction liability insurance due specifically to the attached dwellings. This provision is contingent upon City Council approval of amendments to Title 18 of the Morgan Hill Municipal Code (the Zoning Code) to allow zero lot line or reduced setback detached units.

10. Time for Construction and Completion of Project.

(a) Securing Building Permits and Beginning Construction. Unless excused from performance as provided in paragraph 27 hereof, Property Owner agrees to secure building permits by (see Exhibit "B") and to begin construction of the Project in accordance with the time requirements set forth in the Uniform Building Code and the City's Residential Development Control System (see Exhibit "B") as these exist on the date of execution of this Agreement. In the event Property Owner fails to comply with the above permit issuance and beginning construction dates, and satisfactory progress towards completion of the project in accordance with the Residential Development Control System, the City, after holding a properly noticed hearing, may rescind all or part of the allotments awarded to the Property Owner and award said allotments to the next Residential Development Control System applicant who has qualified for such allotments.

(b) Progress Reports Until Construction of Project is Complete. Property Owner shall make reports to the progress of construction in such detail and at such time as the Community Development Director of the City of Morgan Hill reasonably requests.

(c) City of Morgan Hill to Receive Construction Contract Documents. If the City reasonably requests copies of off-site and landscaping contracts or documents for purpose of determining the amount of any bond to secure performance under said contracts, Property Owner agrees to furnish such documents to the City and the City agrees to maintain the confidentiality of such documents and not disclose the nature or extent of such documents to any person or entity in conformance with the requirements of the California Public Records Act.

(d) Certificate of Completion. Within thirty (30) days after completion to the City's satisfaction of 25% of the total number of units, the City shall provide Property Owners with an instrument in recordable form certifying completion of that portion of the project. Within thirty (30) days after completion to the City's satisfaction of 50% of the total number of units, the City shall provide Property Owners with an instrument in recordable form certifying completion of that portion of the project. Within thirty (30) days after completion to the City's satisfaction of 75% of the total number of units, and after all public and private improvements have been completed to the City's satisfaction, the City shall provide Property Owners with an instrument in recordable form certifying completion of that portion of the project. Within thirty (30) days after completion to the City's satisfaction of 100% of the total number of units, the City shall provide Property Owners with an instrument in recordable form certifying completion of the entire project. Upon issuance of the certificate of completion for 100% of the total units, this Development Agreement shall be deemed terminated as to the entire project.

11. Hold Harmless. Property Owner agrees to defend and hold the City and its officers, agents, employees and representatives harmless from liability for damage or claims for damage for personal injury including death or claims for property damage which may arise as a result of the construction of the project by the Property Owner or his contractor, subcontractor, agent, employee or other person acting within the course and scope of the authority of Property Owner.

Property Owner further agrees to hold the City and its officers, agents, employees, and representatives harmless from liability for damages or claims for damages suffered or alleged to have been suffered as a result of the preparation, supply, and/or approval of the plans and specifications for the project by the City or its officers, agents, employees or representatives.

Nothing herein shall require or obligate Property Owner to defend or hold the City and/or its officers, agents, employees and representatives harmless from or against any damages, claims, injuries, death or liability resulting from negligent or fraudulent acts of the City or its officers, agents, employees or representatives.

12. Insurance. Property Owner shall not commence actual construction under this Agreement until Property Owner has obtained insurance as described herein and received the approval of the City Attorney of Morgan Hill as to form and carrier, which approval shall not be unreasonably withheld. Property Owner agrees to maintain such insurance from a date beginning with the actual commencement of construction of the Project and ending with the termination of the Agreement as defined in Paragraph 20.

(a) Compensation Insurance. Property Owner shall maintain Worker's Compensation Insurance for all persons employed by Property Owner at the site of the Project, not including the contractor and or subcontractors on the site. Property Owner shall require each contractor and subcontractor similarly to provide Worker's Compensation Insurance for

themselves and their respective employees. Property Owner agrees to indemnify the City for damage resulting from its failure to obtain and maintain such insurance and/or to require each contractor or subcontractor to provide such insurance as stated herein.

(b) Public Liability and Property Damage Insurance. Property Owner agrees to carry and maintain public liability insurance against claims for bodily injury, death or property damage to afford protection in the combined single limit of not less than One Million Dollars (\$1,000,000).

(c) Additional Insured. Property Owner shall obtain an additional insured endorsement to the Property Owner's public liability and property damage insurance policy naming the City, its elective and appointive boards, commissions, agents, and employees, as additional insured.

13. Cancellation of Insurance. On or before the commencement of actual construction of the Project, Property Owner shall furnish the City satisfactory evidence that the insurance carrier selected by the Property Owner and approved by the City will give the City of Morgan Hill at least ten (10) days prior written notice of cancellation or reduction in coverage of a policy.

14. Specific Restrictions on Development of Real Property. Notwithstanding the provisions of land use regulations otherwise applicable to the real property by virtue of its land use designation of Multi-family Medium and zoning classification of R3, Medium-Density Residential, the following specific conditions of the Residential Development Control System building allotment approval govern the use of the property and control over provisions in conflict with them, whether lots are developed by the Property Owner or by subsequent property owners:

(a) Permitted uses of the property are limited to the following:

The Tentative map, Grading Plans and Precise Residential Development Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

(b) Maximum density (intensity of use) is:

That shown on the Vesting Tentative map and Grading Plans and Precise Residential Development Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

(c) Maximum height for each proposed building is:

That height shown on the Architectural plans as approved by the City of Morgan Hill under Site and Architectural Review Process.

(d) Landscaping and recreational amenities, as shown on Site, Architectural, Landscape and Grading Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

(e) All public improvements shall be installed by the Property Owner along property frontages to the satisfaction of the Public Works Department consistent with the Site, Architectural, Landscape and Grading Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

(f) All architectural features and materials for all structures shall be constructed as shown on the Architectural plans as approved by the Site and Architectural Review Process.

(g) Property Owner agrees to any other reasonable condition of approval resulting from subdivision, site review and environmental review, which conditions are on file with the City.

(h) Property Owner agrees to include the following safety features in the development:

- (i) One mounted fire extinguisher (rated 2A10BC) for the first 1,500 sf of floor space, plus one fire extinguisher for each additional 1,500 sf of floor space
- (ii) Fire escape ladders for upper floor bedrooms
- (iii) Outdoor lighting to meet all police department specifications
- (iv) Illuminated address numbers for each unit and apartment building directory
- (v) Fire alarm system for all buildings
- (vi) Automatic earthquake shut-off valves for gas service

(i) Property Owner agrees to include the following open space and landscape improvements in the development:

- (i) Private open space areas will be maintained by a homeowners' association
- (ii) One, 24-inch box size tree for each ten site trees; trees shall be from city approved list, with a minimum height of nine feet and spread of three to four feet
- (iii) Sufficient planting around group parking to achieve shading and visual screening
- (iv) Deciduous trees planted along south facing side of buildings
- (v) 24-inch box street trees from city approved list
- (vi) Drought tolerant grasses for lawn area; no more than 25 percent of landscape area to be covered with lawn (calculation exclusive of park landscape area)
- (vii) Water conserving, automatic irrigation system with minimum three separate valves and circuits for trees; shrubs and groundcover; and lawn areas
- (viii) Minimum 50 percent of all plant material will be water conserving plant material from the Selected Plant List, Appendix A of the City Water Conservation Landscape Guide

(j) Property Owner agrees to pay the district-adopted developer fees as provided by the Leroy F. Greene School Facilities Act of 1998.

(k) Property Owner agrees to include the following affordable housing features in the development:

- (i) The Property Owner shall provide all of the units for participation in a Below Market Rate (BMR) rental program approved by the City of Morgan Hill Redevelopment Agency. The specifics of said affordable housing program shall be governed under the terms of a Regulatory Agreement and/or Guidelines adopted by the Business

Assistance and Housing Services Department and between the Property Owner, or successors in interest, and the Redevelopment Agency and as such Agreement and related documents are amended from time to time.

- (ii) A minimum of 45 rental units shall be reserved for very low income residents, with the remaining to be for low income

(l) the development: Property Owner agrees to include the following construction features in

- (i) Install EPA "Energy Star" labeled windows with low-e coatings and vinyl frames, and install a high efficiency gas furnace with 90 percent efficiency rating or greater in all dwellings
- (ii) Install air conditioning units with high efficiency condensing unit with a SEER rating of 12 or higher in at least 60 percent of units
- (iii) Install energy efficient lighting to achieve 15 percent reduction in energy use
- (iv) Central laundry room with gas dryers will be provided
- (v) Utilize materials and construction techniques for all units that exceed current requirements as follows:
 - Cast-iron pipes and piping insulation between floors
 - Class A architectural grade, 25-year composition shingle roof
- (vi) All units will have porches or balconies
- (vii) A minimum of two different roof lines and roof pitches will be utilized throughout the project
- (viii) Each standard trim and base color will represent no more than 15 percent of the project
- (ix) Buildings will be separated by at least 20 percent above minimum Code requirement
- (x) Carports will be located to minimize visibility from Monterey Rd
- (xi) AC units will be placed away from property lines, and closed ventilation systems will be provided for all units facing a street
- (xii) Drywall will be source separated and recycled during construction
- (xiii) Cardboard containers and boxes will be source separated and recycled during construction

(m) The Property Owner agrees to provide the following circulation improvements:

- (i) On-site pedestrian walkways
- (ii) Decorative textured pavement/speed bumps to discourage fast through traffic
- (iii) Entry feature at the Monterey Road or Del Monte Avenue entrance

(n) The Property Owner agrees to provide the following Storm Drain improvements:

- (i) City maintained storm lines will be constructed within paved areas of the streets
- (ii) Applicant will contribute \$1,000 per unit to the Capital Improvement Program Fund

(o) The Property Owner agrees to provide the following park and recreation improvements:

- (i) Tot lot (age appropriate play equipment/minimum 3 activities)
- (ii) Passive recreation area and/or gardens
- (iii) Recreation Hall

(p) The Property Owner shall record constructive notice on the Final Parcel Map for the development that each lot is subject to the requirements of this Development Agreement, and that commitments under the Agreement which the City has permitted the Property Owner to delay must be fulfilled by the next subsequent property owners.

(q) The project shall provide the following information, by address for each unit, to the Community Development Department:

- (i) Date of sale
- (ii) The number of bedrooms
- (iii) The final sales price

This information shall be reported on an annual basis for the calendar year and is due to the City by March 30 of the following year for every year until the project is completed and all units are sold.

15. Effect of Agreement on Land Use Regulations.

(a) Unless otherwise provided herein or by the provisions of the Residential Development Control System, the rules, regulations and official policies governing permitted uses of the real property, governing density and governing the design, improvement and construction standards and specifications applicable to development of the real property are those rules, regulations and official policies, including without limitation building code requirements, in force at the time of the execution of this Agreement.

(b) This Agreement does not prevent the City, in subsequent actions applicable to the real property, from applying new rules, regulations and policies which do not conflict with those rules, regulations and policies applicable to the real property as set forth in Paragraph 14 and in effect at the time of the execution of this Agreement. Any rules, regulations or policies enacted by the City subsequent to the execution of this Agreement which are in conflict with those rules, regulations and policies in effect at the time of the execution of this Agreement or in conflict with the terms of this Agreement shall not be applied to the Project.

(c) The City shall be entitled to impose development fees in effect at the time a vested tentative map or other equivalent map is approved, rather than those in effect as of the date of this Agreement. The City shall be entitled to apply building standards in effect at the time the building permits are actually issued, rather than those in effect as of the date of this Agreement.

(d) This Agreement does not prevent the City from denying or conditionally approving any subsequent development project application on the basis of such existing or new rules, regulations and policies.

(e) Nothing contained herein will give Property Owner a vested right to develop the described Project or to obtain a sewer connection for said Project in the absence of sewer capacity available to the Project.

16. State or Federal Law. In the event that state or federal laws, or regulation, enacted after this Agreement have been entered into, prevent or preclude compliance with one or more provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

17. Periodic Review.

(a) The City shall review this Agreement at least at four times per year and on a schedule to assure compliance with the Residential Development Control System, at which time the Property Owner is required to demonstrate good faith compliance with the terms of this Agreement.

(b) If, as a result of such periodic review, the City finds and determines, on the basis of substantial evidence, that Property Owner has not complied in good faith with the terms or conditions of this Agreement, the City may rescind all or part of the allotments awarded to Property Owner and award said allotments to the next Residential Development Control System applicant who has qualified for such allotments.

18. Amendment or cancellation of Agreement. This Agreement may be amended, or canceled in whole or in part, by mutual consent of the parties and in the manner provided for in California Government Code Section 65868, 65867 and 65867.5.

19. Enforcement. Unless amended or canceled pursuant to Paragraph 18 hereof, this Agreement shall be enforceable by any party to it notwithstanding any change in any applicable general or specific plan, zoning, subdivision, or building regulation adopted by the City, which alters or amends the rules, regulations or policies specified in Paragraph 14 and 15.

20. Termination of Agreement. This Agreement shall terminate upon the occurrence of one or more of the following events or conditions:

(a) The City finds and determines, in accordance with the terms of Paragraph 17, that Property Owner has not reasonably complied in good faith with the terms of this Agreement and the City elects to terminate this Agreement;

(b) Property Owner gives the City written notice of its decision to terminate this Agreement;

(c) Property Owner and the City mutually consent to termination of this Agreement in accordance with the terms of Paragraph 18; or

(d) Issuance of the Certificate of Completion referred to in Paragraph 10(d), provided that this Agreement shall only terminate with respect to that part of the Project to which the Certificate of Completion applies.

21. Default by Property Owner. Property Owner shall be in default under this Agreement upon the occurrence of one or more of the following events or conditions:

(a) If a written warranty, representation or statement was made or furnished by Property Owner to the City with respect to this Agreement which was known or should have been known to be false in any material respect when it was initially made;

(b) A finding and determination by the City of Morgan Hill made following a periodic review under the procedure provided for in Government Code Section 65856.1 that upon the basis of substantial evidence, the Property Owner has not complied in good faith with one or more of the material terms or conditions of this Agreement.

22. Default by the City of Morgan Hill. The City is in default under this Agreement upon the occurrence of one or more of the following events or conditions:

(a) The City, or its boards, commissions, agencies, agents or employees, unreasonably fails or refuses to take action on proposals, applications or submittal presented by the Property Owner within a reasonable time after receipt of such proposals, applications or submittal.

(b) The City unreasonably fails or refuses to perform any obligation owed by it under this Agreement.

(c) The City imposes upon Property Owner rules, regulations or official policies governing permitted uses, density, maximum height and size of proposed structures and reservations (dedications) of land for public purposes of the Property or the design, improvement and construction standards and specifications applicable to the development of the Property, which are not the same in all material respects as those rules, regulations and official policies in effect at the time of the execution of this Development Agreement and which adversely and materially affect the Project.

23. Cure of Default.

(a) This section shall govern cure of defaults except to the extent to which it may be in conflict with the Residential Development Control System. Upon the occurrence of an event of default by either party, the party not in default (the "non-defaulting party") shall give the party in default (the "defaulting party") written notice of the default. The defaulting party shall have thirty (30) calendar days from the date of notice (subject to subsection (b) below) to cure the default if such default is curable within thirty (30) days. If such default is so cured, then the parties need not take any further action except that the defaulting party may require the non-defaulting party to give written notice that the default has been adequately cured.

(b) Should the default not be cured within thirty (30) calendar days from the date of notice, or should the default be of a nature which cannot be reasonably cured within such thirty (30) day period and the defaulting party has failed to commence within said thirty (30) day period and thereafter diligently prosecute the cure, the non-defaulting party may then take any legal or equitable action to enforce its rights under this Development Agreement.

24. Remedies.

(a) In the event Property Owner defaults under the terms of this Agreement, the City, after holding a properly noticed hearing may rescind all or part of the allotments awarded to Property Owner and award said allotments to the next Residential Development Control System applicant who has qualified for such allotments or may terminate or modify this Development Agreement.

(b) In the event the City defaults under the terms of this Agreement, in no event shall the Property Owner be entitled to any of the following:

- (i) Punitive damages;
- (ii) Damages for lost profits;
- (iii) Damages for expenditures or costs incurred to the date of this Agreement.

(c) The parties hereby explicitly acknowledge and agree that remedies for any issue or dispute arising out of the performance or non-performance of this Agreement are limited to those provided under actions for mandamus, declaratory relief and/or specific performance. The parties further agree that in no event shall any party shall maintain any action, claim or prayer for damages pursuant to any alleged federal or state constitutional or statutory claim, or incurred as a result of an alleged breach of this Agreement.

25. Attorneys Fees and Costs. If legal action by either party is brought because of breach of this Agreement or to enforce a provision of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs.

26. Notices. All notices required or provided for under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid addressed as follows:

City of Morgan Hill: Community Development Department
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037

With a copy to: City Clerk
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037

Property Owner: South County Housing
9015 Murray Avenue, Suite 100
Gilroy, CA 95020

A party may change the address shown above by giving notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address.

27. Force Majeure. Either party hereto, acting in good faith, shall be excused from performing any obligations or undertakings provided in this Agreement in the event and for so long as the performance of any such obligation is prevented, delayed, retarded or hindered by an act of God, fire, earthquake, floods, explosion, actions of the elements, war, invasion, insurrection, riot, mob violence, strikes, lockouts, eminent domain, inability to obtain labor or materials or reasonable substitutes therefor, non City governmental restrictions, regulations or controls, including revisions to capacity ratings of the wastewater plant by the Regional Water Quality Control Board, the State Water Resources Board, or any court action or judicial orders; unreasonable delays in processing applications or obtaining approvals, consent or permits, filing of legal actions, or any other cause, not within the reasonable control of such party. Active negligence of either party, its officers, employees or agents shall not excuse performance.

28. Rules of Construction and Miscellaneous Terms.

(a) The singular includes the plural; the masculine gender includes the feminine; "shall" is mandatory; "may" is permissive.

(b) If a part of this Agreement is held to be invalid, the remainder of the Agreement is not affected.

(c) This writing contains in full, the final and exclusive Agreement between the parties.

(d) The time limits set forth in this Agreement may be extended by mutual consent of the parties.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto on the day and year first above written.

APPROVED AS TO FORM:

CITY OF MORGAN HILL

HELENE LEICHTER, City Attorney

J. EDWARD TEWES, City Manager

Attest:

IRMA TORREZ, City Clerk

PROPERTY OWNER(S)

**(ALL SIGNATURES, EXCEPT CITY CLERK AND CITY ATTORNEY,
MUST BE ACKNOWLEDGED BY A NOTARY)**

EXHIBIT "A"

DEVELOPMENT ALLOTMENT EVALUATION

MP-04-02: Monterey – South County Housing

(See Entire Documents on File in the
Community Development Department - City Hall)
CITY OF MORGAN HILL

EXHIBIT "B"

**FY 2005-06 DEVELOPMENT SCHEDULE
MP-04-02: MONTEREY – SOUTH COUNTY HOUSING**

I. SUBDIVISION AND ZONING APPLICATIONS	
Applications Filed:	September 13, 2004
II. SITE REVIEW APPLICATION	
Application Filed:	September 13, 2004
III. FINAL MAP SUBMITTAL	
Map, Improvements Agreement and Bonds:	February 28, 2005
IV. BUILDING PERMIT SUBMITTAL	
Submit plans to Building Division for plan check:	July 1, 2005
V. BUILDING PERMITS	
Obtain Building Permits:	September 13, 2005
Commence Construction:	June 30, 2006

Failure to obtain building permits and commence construction by the dates listed above, shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit six (6) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 28 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

EXHIBIT "C"

LEGAL DESCRIPTION

MP-04-02: Monterey – South County Housing

The land referred to herein is situated in the State of California, County of Santa Clara, City of Morgan Hill and is described as follows:

Parcel One:

Lot 8 as shown on the Map entitled, "Highway Frontage Tract, being a Resubdivision of Lots 24 and 25, Morgan Hill Ranch Map No. 3, recorded in Book "G" of Maps, at pages 20 and 21", and which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on November 8, 1929 in Book of Maps, lettered "X" at page 55.

Excepting therefrom the following described parcel of land:

Beginning at the common corner to Lots 3 and 8 in the center line of Wright Avenue and running thence along said centerline S.55°08'W., 100.00 feet; thence N.34°52'W., 183.00 feet to an iron pipe (at 33.00 feet on this course is an iron pipe in the Northerly line of Wright Avenue); thence N.55°08'E., 107.45 feet to an iron pipe in the Easterly line of Lot 8; thence along the Easterly line of Lot 8, S.34°52'E., 183.15 feet to the point of beginning (back 33.00 feet on this course is an iron pipe in the Northerly line of Wright Avenue).

Parcel Two:

All of Lot 4, and a portion of Lot 5, as shown upon that certain Map entitled, "Map of the Highway Frontage Tract", which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on November 8, 1929, in Book X of Maps, at page 55 as follows:

Beginning at the intersection of the Southwesterly line of Monterey Road, as established by the Deed to the State of California, recorded December 3, 1937, in Book 849 of Official Records, page 561, with the most Easterly corner of that certain parcel of land described in the Deed to George J. Fechi, et al, recorded March 10, 1961 in Book 5099 of Official Records, at page 462, thence from said point of beginning and along the Southwesterly line of said Monterey Road, North 32°36' West 150.12 feet to a point thereon, thence leaving last said line and parallel with the Southeasterly line of said land Deed to George J. Fechi, et al, South 55°08' West 446.51 feet to a point on the Southwesterly line of said land Deeded to George J. Fechi, et al, thence along the last said line South 32°32' East 150.12 feet to the most Southerly corner thereon; thence along the Southeasterly line thereon North 55°08' East 446.69 feet to the point of beginning.

Parcel Three:

Lot numbered Two (2) as laid down, designated and delineated upon that certain Map entitled, "Highway Frontage Tract, being a resubdivision of Lots 24 and 25, Morgan Hill Ranch Map No. 3 recorded in Book G of Maps pages 20 and 21", and which said Map was recorded in the Office of the County of Santa Clara, State of California, on November 8, 1929 in Book "X" of Maps, page 55.

Saving and excepting therefrom all that portion thereof conveyed by J.J. Rossi and Lena Rossi, husband and wife to State of California by Deed dated November 4, 1937 and recorded November 24, 1937 in Liber 853 Official Records, page 130 and more particularly described as follows:

Commencing at the most Northerly corner of the above mentioned Lot 2, distant S.54°54'30" W. 40.03 feet from Engineer's Station "A" 1002 and 75.38 P.O.T. of the Department of Public Works' Survey for the relocation of the State Highway from Coyote to Morgan Hill, Road IV-S01-2-B; thence along the Northeasterly line of said Lot, which is the Southwesterly line of Monterey Road, S.32°48'E. 100.09 feet to the most Easterly corner of said Lot distant S.54°54'30"W. 40.03 feet from the Engineer's Station "A" 1003 and 75.47 P.O.T. of said survey; thence along the Southeasterly line of said Lot S.54°54'30"W. 15.01 feet to a line parallel to and 55 feet Southwesterly at right angles, from the center line of said survey; thence along said parallel line N.32°48'W. 100.09 feet to the Northwesterly line of said Lot; thence along said Northwesterly lot line N.54°54'30"E. 15.01 feet to the point of commencement.

APN: 764-12-008, -009, -018 and -019

ARB: 770-1-11, 20, 21, 38



CITY COUNCIL & REDEVELOPMENT

AGENCY STAFF REPORT

MEETING DATE: *January 19, 2005*

DEPOT STREET CAPITAL GRANT ACCEPTANCE

RECOMMENDED ACTION(S): 1) Adopt a resolution accepting the Metropolitan Transportation Commission's Transportation for Livable Communities Capital Grant to improve Depot Street, and 2) Appropriate \$341,314 from Fund 317's balance to provide the grant's required match.

EXECUTIVE SUMMARY: In July, 2004 the City submitted a proposal to improve five blocks of Depot Street (from Main through 5th Street) to the Metropolitan Transportation Commission (MTC) for consideration in the Cycle 1, FY 2004-05 Transportation for Livable Communities (TLC) capital grant competition. The proposal was to develop Depot Street to conform with the new Downtown Plan. It included wide, tree-lined sidewalks on the east side of the street, planting strips and sidewalks on the west, bicycle lanes on both sides of the street, pedestrian scaled street lighting, special paving at intersections that ties to the pedestrian walkways, narrow traffic lanes with median islands at intersection approaches, additional irrigated street landscaping, street furniture and public art. It should be noted that a schematic plan of the Depot Street improvements was contained in the updated Downtown Plan. This schematic plan was funded by a planning grant from MTC.

On December 15, 2004, the MTC approved the grant request in the full amount of \$2,626,638; the largest amount awarded in this competition. Grant regulations require the City to approve a resolution which accepts the grant funds, specifies the amount and source of the required local matching funds, and promises to maintain the development schedule outlined in the MTC's Request for Proposals.

The City is required to provide a local match of \$341,314 or at least 11.5% of the total project cost of \$2,967,952. We are recommending that the Redevelopment Agency provide the \$341,314 match from its Economic Development Funds. Other options are the funds allocated to the Downtown RFP process or the unallocated \$1.3 million in 80% Agency funds identified in the discussions regarding the funding for the library. In addition to the specified "match" the City is responsible for any project cost overruns. Undergrounding the over-head utilities was specifically prohibited from being part of this grant, and cannot be used as the local match. However, Public Works will propose the undergrounding as a separate CIP project for next fiscal year.

Staff is submitting requests to Caltrans for initial field and environmental reviews. Caltrans will be responsible for releasing the federal grant funds. Final design and environmental actions will begin once Caltrans acts on the City requests. We anticipate that environmental review and design will take 10 months. The project construction would begin in Summer 2006. The project will be completed in Spring 2007.

FISCAL IMPACT: The \$341,314 from Fund 317 would come from the funds for future Economic Development activities.

Agenda Item # 11

Prepared By:

**BAHS Analyst
Approved By:**

**BAHS Director
Submitted By:**

City Manager

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AUTHORIZING THE FILING OF AN APPLICATION FOR FEDERAL SURFACE TRANSPORTATION FUNDS THROUGH THE METROPOLITAN TRANSPORTATION COMMISSION'S TRANSPORTATION FOR LIVABLE COMMUNITIES PROGRAM FOR THE DEPOT STREET CAPITAL PROJECT AND COMMITTING THE NECESSARY LOCAL MATCH FOR THE PROJECT AND STATING THE ASSURANCE OF THE CITY OF MORGAN HILL TO COMPLETE THE PROJECT.

WHEREAS, the Transportation Equity Act for the 21st Century (TEA 21) (Public Law 105-178, June 9, 1998) and the TEA 21 Restoration Act (Public Law 105-206, July 22, 1998) continue the Surface Transportation Program, the Congestion Mitigation and Air Quality Improvement Program and the Enhancements Activities Program; and

WHEREAS, pursuant to TEA 21, and the regulations promulgated thereunder, eligible project sponsors wishing to receive federal transportation grants for a project shall submit an application first with the appropriate metropolitan transportation planning organization (MPO) for review and consideration in the MPO's Transportation Improvement Program (TIP); and

WHEREAS, the Metropolitan Transportation Commission is the San Francisco Bay Area's MPO; and

WHEREAS, City of Morgan Hill is an eligible project sponsor for federal transportation funds: and

WHEREAS, City of Morgan Hill wishes to receive federal transportation funds through MTC's Transportation for Livable Communities (TLC) Program's capital grants for the following project: Reconstruct and improve Depot Street in conformance with the new Morgan Hill Downtown Plan including wide tree-lined sidewalks on the east side of the street, planting strips and sidewalks on the west, bicycle lanes on both sides of the street, pedestrian-scaled street lighting, special paving at street intersections that ties to the pedestrian walkways, narrow traffic lanes with median islands approaching the intersections, additional street landscaping, street furniture and public art.

WHEREAS, MTC requires a resolution stating the following:

- 1) the commitment of necessary local matching funds of at least 11.5%; and
- 2) that the sponsor understands that the federal funding through the TLC program is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded through the TLC program; and
- 3) the assurance of the sponsor to complete the project as described in the application, and if approved, as programmed in MTC's TIP; and

- 4) that the sponsor understands that funds must be obligated by June 30, 2006 for TLC capital projects, or the project may be removed from the program.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Morgan Hill that the City of Morgan Hill is authorized to proceed with the federal-aid process with Caltrans for TLC funding in the amount of \$2,626,638 for the Depot Street Capital project described above; and

BE IT FURTHER RESOLVED that the City Council of the City of Morgan Hill by adopting this resolution hereby states that:

- 1) The City of Morgan Hill will provide \$341,314 in local matching funds; and
- 2) The City of Morgan Hill understands that the TLC Program funding for the project is fixed at \$2,626,638, and that any cost increases must be funded by the City of Morgan Hill from local matching funds and that the City of Morgan Hill does not expect any cost increases to be funded through the TLC program; and
- 3) The Depot Street Capital Project will be built as described in this resolution and submitted application and, if approved, for the amount shown in the Metropolitan Transportation Commission (MTC) Transportation Improvement Program (TIP) with obligation occurring within the timeframe established below; and
- 4) The program funds will be obligated by June 30, 2006 for TLC capital projects; and
- 5) The City Manager is hereby authorized to do everything necessary and appropriate to accept the TLC grant, and execute any program related documents.

BE IT FURTHER RESOLVED that a copy of this resolution will be transmitted to MTC.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 19th Day of January, 2005 by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

City of Morgan Hill
Resolution No.
Page 3

🍷 CERTIFICATION 🍷

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,
do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City
Council at a Regular Meeting held on January 19, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



**REDEVELOPMENT AGENCY/CITY
COUNCIL STAFF REPORT**

MEETING DATE: January 19, 2005

Agenda Item # 12

Approved By:

BAHS Director

Submitted By:

Executive Director

**ADDITIONAL LOAN FOR OFF-SITE IMPROVEMENTS
FOR DAY WORKER CENTER PROJECT**

RECOMMENDED ACTION(S): Authorize the Executive Director to prepare and execute all the necessary and appropriate legal documents, subject to Agency Counsel review, needed to provide an additional \$15,000 loan to Charles Weston and Lesley Miles to construct the offsite improvements related to the Day Worker Center project.

EXECUTIVE SUMMARY: On February 18, 2004, the City Council/Redevelopment Agency approved a loan to Charles Weston and Lesley Miles (Developer) to fund the off-site improvements for the Day Worker Center. The off-site improvements include curb, sidewalk, gutter, street improvements, lighting, engineering and inspection fees, water and sewer improvements, and utility undergrounding in-lieu fees. The loan was in an amount not-to-exceed \$180,000. At that meeting, the City/Agency also approved a loan of \$15,000 to the Day Worker Committee to fund their share of the offsite improvements for the project. The Developer had indicated to the Day Worker Committee that a portion of the offsite improvements may need to be rebuilt in the future because the improvements may not be compatible with the long term permanent development of the site (e.g., driveways may need to be relocated for the future residential development). The Day Worker Committee acknowledged this possibility and agreed to fund the improvements that may need to be rebuilt with the permanent development of the site. These improvements were estimated to cost \$15,000.

Since that time, the Day Worker Committee has indicated that its umbrella legal entity, the Roman Catholic Bishop of San Jose, does not want to be responsible for repaying the loan and will not execute the documents for the loan. The Developer has indicated that their existing \$180,000 loan is insufficient to cover all the offsite improvement costs. Attached is a letter from WM requesting additional assistance. The terms of the loan would be the same as the initial \$180,000 loan:

- Zero percent (0%) interest for the first five years; the interest rate increases to LAIF for the sixth and seventh years of the loan
- Loan repayments would begin in year six or when a building permit is pulled, whichever is earlier.
- Payments are amortized over two years from when payments begin.
- The loan would be secured against the property, most likely as a third deed of trust.

The Council's Economic Development Subcommittee has considered this request and is recommending approval.

FISCAL IMPACT: There would be no net financial impact as the \$15,000 allocated to the Day Worker Committee for offsite improvements is in essence being transferred to the Developer.



**REDEVELOPMENT AGENCY/CITY
COUNCIL STAFF REPORT**

MEETING DATE: January 19, 2005

Agenda Item # 13

Approved By:

BAHS Director

Submitted By:

Executive Director

**ADDITIONAL LOAN FOR OFF-SITE IMPROVEMENTS
FOR DAY WORKER CENTER PROJECT**

RECOMMENDED ACTION(S): Authorize the Executive Director to prepare and execute all the necessary and appropriate legal documents, subject to Agency Counsel review, needed to provide an additional \$15,000 loan to Charles Weston and Lesley Miles to construct the offsite improvements related to the Day Worker Center project.

EXECUTIVE SUMMARY: On February 18, 2004, the City Council/Redevelopment Agency approved a loan to Charles Weston and Lesley Miles (Developer) to fund the off-site improvements for the Day Worker Center. The off-site improvements include curb, sidewalk, gutter, street improvements, lighting, engineering and inspection fees, water and sewer improvements, and utility undergrounding in-lieu fees. The loan was in an amount not-to-exceed \$180,000. At that meeting, the City/Agency also approved a loan of \$15,000 to the Day Worker Committee to fund their share of the offsite improvements for the project. The Developer had indicated to the Day Worker Committee that a portion of the offsite improvements may need to be rebuilt in the future because the improvements may not be compatible with the long term permanent development of the site (e.g., driveways may need to be relocated for the future residential development). The Day Worker Committee acknowledged this possibility and agreed to fund the improvements that may need to be rebuilt with the permanent development of the site. These improvements were estimated to cost \$15,000.

Since that time, the Day Worker Committee has indicated that its umbrella legal entity, the Roman Catholic Bishop of San Jose, does not want to be responsible for repaying the loan and will not execute the documents for the loan. The Developer has indicated that their existing \$180,000 loan is insufficient to cover all the offsite improvement costs. Attached is a letter from WM requesting additional assistance. The terms of the loan would be the same as the initial \$180,000 loan:

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- Loan repayments would begin in year six or when a building permit is pulled, whichever is earlier.
- Payments are amortized over two years from when payments begin.
- The loan would be secured against the property, most likely as a third deed of trust.

The Council's Economic Development Subcommittee has considered this request and is recommending approval.

FISCAL IMPACT: There would be no net financial impact as the \$15,000 allocated to the Day Worker Committee for offsite improvements is in essence being transferred to the Developer.

**CITY OF MORGAN HILL
JOINT SPECIAL CITY COUNCIL
AND SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES – DECEMBER 15, 2004**

CALL TO ORDER

Mayor/Chairman Kennedy called the special meeting to order at 6:01 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Grzan, Sellers, Tate and Mayor/Chairman Kennedy

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

City Attorney/Agency Counsel Leichter announced the below listed closed session items:

1.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Authority:	Government Code section 54956.9(a)
Case Name:	Wells Construction Group v. City of Morgan Hill et al.
Case Number:	Santa Clara County 1-04-CV-030195

2.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Authority:	Government Code section 54956.9(a)
Case Name:	Arcadia Development Company v. City of Morgan Hill
Case Number:	Santa Clara County No. 1-04-CV-020598

3.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Authority:	Government Code section 54956.9(a)
Case Name:	Flooring Solutions v. Wells Construction, et al.
Case Number:	Santa Clara County No. 1-04-CV-031843

4.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Authority:	Pursuant to Government Code 54956.9(a)
Case Name:	City of Morgan Hill v. Howard Vierra
Case Number:	Santa Clara County Superior Court, Case No. 1-04-CV-026723

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairman Kennedy opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 6:03 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 7:08 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Leichter announced that authority was given to defend in items 1 and 3 as listed above.

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comments for items not appearing on this evening's agenda. No comments were offered.

City Council Action

CONSENT CALENDAR:

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Approved** Consent Calendar Item 1 as follows:*

1. **EMERGENCY EXPENDITURE FOR WATER LINE REPAIR AT EAST DUNNE BOOSTER STATION – Resolution No. 5867**
Action: 1) **Adopted** Resolution No. 5867, Declaring the Need for Emergency Expenditure for Repair Work to a High Pressure Water Line at East Dunne Booster Station; and 2) **Approved** Funding in the Amount of \$28,000 for this Emergency Work.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 7:40 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL
AND SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES – DECEMBER 15, 2004**

CALL TO ORDER

Mayor/Chairman Kennedy called the meeting to order at 6:01 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Grzan, Sellers, Tate and Mayor/Chairman Kennedy

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

City Attorney/Agency Counsel Leichter announced the below listed closed session items:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Sections 54956.9(b) & (c)
Number of Potential Cases: 5

2.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Authority: Pursuant to Government Code 54956.9(a)
Case Name: City of Morgan Hill v. Tanya J. Keppler
Case Number: Santa Clara County Superior Court, Case No. 1-04-CV-016682

3.

EXISTING LITIGATION

Authority: Government Code section 54956.9(a)
Case Name: U.S. Perma, Inc. v. Stevelle Construction, et al.
Case Number: Santa Clara County Superior 104CV031315

4.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Authority: Pursuant to Government Code 54956.9(a)
Case Name: In Re Gregory T. Hemming and Kimberley L. Hemming
Case Number: United States Bankruptcy Court, Eastern District of California, Case No. USBC-EDC-2004-20318-B-7

5.

EXISTING LITIGATION

Authority:	Government Code section 54956.9(a)
Case Name:	Flooring Solutions Inc. v. Wells Construction et al.
Case Number:	104CV031843

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairman Kennedy opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 6:03 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 7:08 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Leichter announced that authority was given to defend in item 5 as listed above.

SILENT INVOCATION

Mayor Kennedy announced that Morgan Hill has lost one of its outstanding community leaders last night, Bob Engles. He indicated that Mr. Engles was a tireless advocate for Morgan Hill serving as a planning commissioner, and on the General Plan and Economic Development Committees. He was appointed to the City's Visioning Committee that put together the Redevelopment Plan that is currently being implemented that includes the community and cultural center, the aquatics center, the new library and many other successful projects that are now either completed or on their way to be completed. He was also past president of the Morgan Hill Chamber of Commerce and volunteered to serve on many community serving committees and programs. He expressed the City's deepest sympathy to his wife Judy, his family and friends, indicating that this evening's City Council's meeting would be adjourned in his memory.

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairman Kennedy, Nick, a student, led the Pledge of Allegiance.

RECOGNITIONS

Mayor Kennedy presented Certificates of Recognition to retiring Morgan Hill Unified School District Board Members Del Foster, Jan Masuda and George Panos. He thanked them for their many years of excellent service to the citizens of Morgan Hill.

INTRODUCTIONS

Assistant Director of Public Works Mori Struve introduced three new Public Works employees: Kat Corrales, Office Assistant II; Ken Lozano, Maintenance Worker II; and Michael Craig, Utility Worker I.

PRESENTATION

Mayor Kennedy presented Director of Finance Dilles and finance staff members Tina Reza and Lourdes Reroma with a Certificate of Achievement for Excellence in Financial Reporting given to the City of Morgan Hill for its Comprehensive Annual Financial Report for the Fiscal Year ending June 30, 2003 by the Government Finance Officers Association.

Director of Finance Dilles informed the Council that in attendance this evening was Paul Niedermuller with Moss, Levy and Hartzheim, the City's new audit firm who would be willing to answer questions regarding the audit.

City Treasurer Mike Roorda recognized City Manager Tewes, Finance Director Dilles and his staff for all their assistance and the fine quality/hard work produced. He welcomed the City's new accountants/auditors and felt that they provided an excellent review. He indicated that the City received a clean bill of health for both the City and the Redevelopment Agency. He stated that the audit firm made recommendations to management and that it is his hope that City staff will follow up on this recommendation.

Mr. Niedermuller informed the Council that both the City and the Redevelopment Agency received an unqualified opinion. The audit firm did not have issues with the financial numbers. He felt that City staff had adequate internal controls in order for his firm to rely upon the numbers presented.

Council Member Carr thanked the School Board Members in attendance, indicating that he could not say enough about the work that they performed in their 4-8 year terms for the School District. He further thanked the outgoing School Board Members for their tireless work, their advocacy for students, public education, and all the work that went into making this community a great place to live.

Mayor Kennedy concurred with Council Member Carr's comments and thanked the School Board Members for their years of service they provided to the community.

CITY COUNCIL REPORT

Mayor Kennedy reported that the City Council has been meeting with South County stakeholders for the past six months. Invited and attending these meetings were representatives from the following agencies: Morgan Hill Unified School District, Gavilan College, the Realtors Association, Greenbelt Alliance, Open Space Authority, Santa Clara County Board of Supervisor Don Gage, and the City of Gilroy. The stakeholders in attendance addressed issues of concerns with respect to the City of San Jose's proposed development of Coyote Valley. He indicated that in August 2004 a letter was sent to the City of San Jose that outlined various issues that were identified with the Plan. Concerns include the adverse impacts

associated with: traffic congestion, housing affordability, medical services and schools. He stated that the response from the City of San Jose has been inadequate. At the Task Force meeting held last Monday, the South County Stakeholders group made a motion to reject the Coyote Valley Plan as outlined because the City of San Jose has not addressed any of the concerns raised, noting that the City of San Jose is moving full speed ahead. He felt that it was apparent that it is the City of San Jose's goal to move this plan forward, giving only lip service to the concerns that have been raised. He stated that a letter was prepared, presented, and read at the Coyote Valley Task Force meeting. The letter addresses South County Stakeholders' wish to work collaboratively with the City of San Jose and expressed frustration that this has not happened. He read part of the letter into the record which states that the lack of response to concerns raised leaves the South County Stakeholders with no option but to oppose the City of San Jose's Coyote Valley Plan. Based on the information provided by the City of San Jose, the South County Stakeholders believe that the proposed development of Coyote Valley is too great and that it would have a significant impact to the immediate area and all of South County. Further, should the City of San Jose delay task force approval of the preferred land use plan and work cooperatively with South County agencies to amend the plan in such a way that would address concerns, they would gladly endorse their planning efforts to promote successes. Otherwise, South County agencies will need to evaluate options available to ensure that failures do not impact the South County area. He indicated that he signed the letter on behalf of Board of Supervisor Don Gage; Russ Danielson, member of the Task Force; Shelle Thomas, president of the Morgan Hill Unified School District Board; Dr. McKennen, Superintendent of the Morgan Hill Unified School District; Alex Kennett, Chamber of Commerce Economic Development Committee; and all members of the Morgan Hill City Council. He stated that this letter was presented to all San Jose City Council Members as well as Mayor Gonzalez and the San Jose Task Force. If South County stakeholders do not receive a response addressing the issues raised, he stated that appropriate action will need to take place. He stated that the Council would continue its work on the Coyote Valley Plan and with the South County stakeholders group.

CITY MANAGER REPORT

City Manager Tewes reported that earlier today, a highly valued and respected member of the Public Works Department retired, Ray Dellanini. He stated that Mr. Dellanini managed the City's utility systems. He indicated that Mr. Dellanini began his career with the City as a utility worker 15 years ago and rose quickly to become one of the City's most valued employees. The affection to which his colleagues and the people he worked with was demonstrated today at his retirement luncheon. He stated that without Mr. Dellanini the City would not have the quality utility systems in place today. He thanked Mr. Dellanini for his 15 years of service to the City.

Lieutenant Booten indicated that Morgan Hill Police Department participates in the Avoid The 13 campaign every year as a campaign against drunk driving to reduce the number of fatalities and injuries associated with this particular crime. She stated that the City will be dedicating officers, on an overtime basis, to participate solely to target drunk drivers. She said that through the years, this program has been successful. This year, the Avoid The 13 campaign will start Friday, December 17 and end on New Years Day. He stated that the City will be participating in a county-wide strike team and that on Saturday, the City will be hosting a Driving Under the Influence (DUI) check point on Monterey Road near John Wilson Way. She informed the Council that the City's police department is diligent not only during these two weeks in the campaign, but is diligent 365 days per year. It is a mission to keep the City's

streets safe and that everyone has a happy holiday. She informed the Council that the City just received conformation of the award of a mini grant for funding of four additional DUI check points throughout this next year, good through January 2006.

CITY ATTORNEY REPORT

City Attorney Leichter stated that the Litigation Report has been made available and would be made available to anyone wishing a copy. She informed the Council that the state court proceeding of the Hacienda Mobile Home Park case has been dismissed and that the City has appealed to the United States Supreme Court to dismiss the case. She expects its dismissal by the end of the year.

OTHER REPORTS

None.

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comments for items not appearing on this evening's agenda.

Mayor Pro Tempore Sellers stated that he was saddened to hear about the loss of Mr. Engles because he was a tremendous asset to this community and a close personal friend. He announced that services for Mr. Engles will take place on Monday, December 20 at 11 a.m. at the South Valley Community Church located in Gilroy.

Julian Mancias presented certificates of appreciation to Tony Eulo and Garrett Toy, staff members who have been instrumental with the Dayworker Center. He indicated that the opening of the Dayworker center was held on Saturday.

Bob Cerruti, San Martin resident, addressed the California Mission Bells that have been installed along Highway 101 by Caltrans. He indicated that the bells were designed to mark the original El Camino Real road. He stated that the bells installed in South County are not on the El Camino Real which is in fact Monterey Road. He stated that John Kolstad of Saratoga teamed up with Caltran to receive a \$1.4 million federal grant for the manufacturing and installation of the bells. When it was discussed where to install the bells, Caltran advised that they would be installed along Highway 101 and not along Monterey Road in South County. He indicated that Mr. Kolstad has just produced a new sign that reads "El Camino Real Original Route." He felt that it would be nice to have the bells installed along Monterey Road in Morgan Hill. He indicated that the cost of one bell is \$1,795 that includes the bell, pipe, all mounting hardware and paint.

Chris Bryant felt that in today's tough economic times, more and more public/private partnerships are forming to assist different businesses and to allow cities to accomplish their goals without long term negative impacts to budgets. He felt that more and more of these public/private partnerships are being considered as a return on investments; a cash outlay versus a cash return. While negative impacts resulting in additional outlays should be avoided, benefits to the community, the quality of life and the

visibility of the community are all benefits that ultimately add to the economic base of a city. Even if a project is revenue neutral or does not result in a significant return to the City, would improve the none tangible benefits such as the quality of life, providing venues for youth, or providing the perception of a city as a destination. He felt that this should be weighed heavily in any decisions made.

Dewey Kosich requested that the Council grant an extension of time to his 1-lot subdivision located on Christoph Drive as listed under agenda item 1. He indicated that he has been before the Council many times seeking extensions. He informed the Council that he has had insurance problems that resulted in difficulty in getting his parcel map recorded. He felt that he had enough time to record his map, but that he recently found out that the City will be closed December 23 thru January 3, 2005 and that he would run out of time. He stated that he is almost close to solving his insurance problems and is trying hard to develop the one lot subdivision. He requested a 15-day extension beyond December 31, 2005.

No further comments were offered.

Mayor Kennedy presented a Certificate of Recognition to John Tarvin, Rotary Club President, acknowledging the Rotary Club's donation of time and materials to the Paradise Park renovations.

City Council Action

CONSENT CALENDAR:

Council Member Carr requested that item 2, Council Member Tate requested that item 4 and Mayor Pro Tempore Sellers requested that item 19 be removed from the Consent Calendar.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Approved** Consent Calendar Items 1, 3, 5-18 and 20 as follows:*

1. **REVISION TO SUBDIVISION IMPROVEMENT AGREEMENT WITH DEWEY AND CAROLYN KOSICH (APN: 764-32-024)**
***Action:** **Authorized** the City Manager to Sign the Revised Subdivision Improvement Agreement on Behalf of the City, Subject to Review and Approval by the City Attorney.*
3. **AB1600 DEVELOPMENT IMPACT FEE REPORT FOR FISCAL YEAR 2003/2004**
***Action:** **Accepted** and **Filed** the AB1600 Development Impact Fee Report for the 2003-2004 Fiscal Year.*
5. **AGREEMENT WITH LIVE WIRE, LLC**
***Action:** **Authorized** the City Manager to do Everything Necessary and Appropriate to Execute and Implement an Agreement with Live Wire, LLC; Including Making Modifications to the Agreement, Subject to Review and Approval by the City Attorney, to Share Sales Tax Revenue Generated by the Project.*

6. **ACCEPTANCE OF DONATIONS FOR PARADISE PARK IMPROVEMENTS FROM ROTARY CLUB OF MORGAN HILL**
*Action: **Accepted** Donation by the Morgan Hill Rotary Club for Improvements to Paradise Park.*
7. **ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9423, MISSION RANCH PHASE V – Resolution No. 5867**
*Action: 1) **Adopted** Resolution No. 5867, Accepting the Subdivision Improvements Included in Tract 9423, Commonly Known as Mission Ranch Phase V; and 2) **Directed** the City Clerk to File a Notice of Completion with the County Recorder's Office.*
8. **ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9424, MISSION RANCH PHASE VI – Resolution No. 5868**
*Action: 1) **Adopted** Resolution No. 5868, Accepting the Subdivision Improvements Included in Tract 9424, Commonly Known as Mission Ranch Phase VI; and 2) **Directed** the City Clerk to File a Notice of Completion with the County Recorder's Office.*
9. **APPLICATION FOR TRANSPORTATION CLEAN AIR FUNDS FOR SOLID WASTE COLLECTION VEHICLES**
*Action: 1) **Authorized** the City Manager to Submit an Application to the Bay Area Air Quality Management District (BAAQMD) for Reimbursement of Expenses Incurred by Solid Waste Collection Vehicles (SWCV) Operating Within the City; and 2) **Authorized** the City Manager to Execute a Funding Agreement on Behalf of the City with the Bay Area Air Quality Management District for the Purposes Described Above, if Said Application is approved by BAAQMD; Subject to Review and Approval by the City Attorney.*
10. **APPROVAL OF PURCHASE ORDERS TO U.S. FILTER FOR PERCHLORATE REMOVAL SYSTEMS AT NORDSTROM AND TENNANT WELLS**
*Action: **Authorized** Issuance of Purchase Orders to U.S. Filter in the Amount of \$192,300.*
11. **EMERGENCY EXPENDITURE FOR REPLACEMENT OF PUMP AND COLUMN AT BOY'S RANCH WELL #1 - Resolution No. 5869**
*Action: 1) **Adopted** Resolution No. 8569, Declaring the Need for This Emergency Expenditure; and 2) **Approved** Expenditure of \$30,000 for Emergency Purchase and Installation of Replacement Pump and Column at Boy's Ranch Well #1.*
12. **AWARD OF CONTRACT FOR CONSTRUCTION OF BOYS RANCH RESERVOIR #3**
*Action: 1) **Approved** Project Plans and Specifications; 2) **Awarded** Construction Contract to CB&I Constructors, Inc. in the Amount of \$1,403,640; 3) **Authorized** Construction Contingency Funding of \$197,399; and 4) **Authorized** the City Manager to Execute a Consultant Services Agreement with Schaaf & Wheeler for Construction Services in an Amount not to exceed \$120,000; Subject to Review and Approval by City Attorney.*
13. **AUTHORIZE PAYMENT OF THE COST OF THE NOVEMBER 2, 2004 GENERAL MUNICIPAL ELECTION**

Action: Authorized Payment in the Amount of \$43,052.00 to the Santa Clara County Registrar of Voters Office for Election Services.

14. **RESOLUTION PROVIDING COMPENSATION FOR CITY OF MORGAN HILL MANAGEMENT AND CONFIDENTIAL EMPLOYEES – Resolution No. 5870**

Action: Adopted Management Resolution No. 5870.

15. **AMENDMENT TO THE CITY OF MORGAN HILL'S RECORDS RETENTION SCHEDULE – Resolution No. 5871**

Action: Adopted Resolution No. 5871, Amending the City's Records Retention Schedule.

16. **ADOPT ORDINANCE NO. 1703, NEW SERIES**

Action: Waived the Reading, and **Adopted** Ordinance No. 1703, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1694, NEW SERIES, EXHIBIT B (ALLOWED USES FOR DIGITAL ISLAND VENTURE PROFESSIONAL CENTER) TO ALLOW A MAGNETIC RESONANCE IMAGING FACILITY (APNs 726-25-080 thru -082) (ZA-04-07: DIGITAL – VENTURE PROFESSIONAL CENTER).**

17. **ADOPT ORDINANCE NO. 1704, NEW SERIES, AS AMENDED**

Action: Waived the Reading, and **Adopted** Ordinance No. 1704, New Series, As Amended, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING CHAPTER 13.28 (SOLID WASTE COLLECTION AND DISPOSAL) OF TITLE 13 (PUBLIC SERVICES) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING GARBAGE CONTAINER PLACEMENT FOR COLLECTION.**

18. **SPECIAL CITY COUNCIL MEETING MINUTES OF DECEMBER 1, 2004**

Action: Approved the Minutes as Written.

20. **NOVEMBER 2004 CITY FINANCE & INVESTMENT REPORT**

Action: Accepted and **Filed** Report.

2. **AMENDMENT TO CONTRACT FOR LEGAL SERVICES**

Council Member Carr requested an individual vote be taken for an amendment to a contract for legal services.

Action: On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0): 1) **Authorized** the Mayor to Execute an Amendment to Agreement with Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP for

*Miscellaneous Legal Services; and 2) **Appropriated** \$50,000 from Unappropriated General Fund Reserves.*

4. MORGAN HILL LIBRARY – STATUS OF SELECTION OF CONSTRUCTION MANAGEMENT FIRM

Council Member Tate said that staff prepared a good report until you read the last line of the staff report. He said that it was a surprise to read that the anticipated completion date for the library would be spring 2007 as it was his belief that this project would be on track to be completed at the end of 2006, incorporating a multiple prime approach to improve the timeline. He requested that the project move full speed ahead as was done with the Community and Cultural Center and the aquatics center.

Project Architect Dumas stated that the City received four construction management proposals today. In talking with some of the firms, some feel that a 24-month schedule is doable while some state that 30-months is doable. He said that it is staff's desire to work with the construction management firm to be selected and work out the actual construction schedule for the library.

Mayor Kennedy stated that he raised the same issue with the City Manager. The City Manager commented that if he had his way, a completion date would not have been identified in the staff report, identifying the schedule when the construction manager is on board. He felt that it was important that a completion date not be identified at this time, striking the date from the document so that the City does not create the impression that this is the target date. He recommended that the Council ask for an aggressive construction schedule as an aggressive schedule would keep the contractors on their toes and would not allow them time to drag their feet.

Mayor Pro Tempore Sellers stated that it was his belief that all Council members feel exactly the same way; that the construction of the library building is to be expedited.

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Accepted** the Status Report, deleting the last sentence of the staff report (delete identification of the construction schedule).*

19. SPECIAL CITY COUNCIL WORKSHOP ON COYOTE VALLEY SPECIFIC PLAN MINUTES OF DECEMBER 1, 2004

Mayor Pro Tempore Sellers requested that page 4, paragraph 8 of the minutes be amended to more accurately reflect the intent of his comments. It was his intent to state that he was concerned that due to previous comments, the public may have the impression that none of the agencies present opposed the Coyote Valley development. He said that a lot of concerns were expressed by several agencies and that he did not want it to be implied that everyone was in concurrence and that there was a recent change in heart. He felt that there has been concern all along about Coyote Valley development. He stated that some individuals have expressed concerns more stridently and directly than others. However, he felt that everyone has come to the conclusion that there are concerns and that the Stakeholders' worst fears are being realized that these concerns are not being addressed.

Action: *Mayor Pro Tempore Sellers made a motion, seconded by Council Member Tate, to approve the Special City Council Minutes of December 12, 2004 as amended by Mayor Pro Tempore Sellers. The motion carried unanimously (5-0).*

Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Agency Member Tate and seconded by Vice-chairman Sellers, the Agency Board unanimously (5-0) **Approved** Consent Calendar Item 21 as follows:*

21. NOVEMBER 2004 RDA FINANCE & INVESTMENT REPORT

Action: ***Accepted** and **Filed** Report.*

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Council/Agency Member Tate and seconded by Mayor Pro Tempore/Vice-chairman Sellers, the City Council/Agency Board unanimously (5-0) **Approved** Consent Calendar Item 22 as follows:*

22. JOINT REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF DECEMBER 1, 2004

Action: ***Approved** the Minutes as Written.*

City Council Action (Continued)

CONSENT CALENDAR:

Council Member Carr requested that item 23 be removed from the Consent Calendar.

23. EXTENSION OF TIME, EOT-04-08: McLAUGHLIN-SOUTH COUNTY HOUSING – Resolution No. 5872

Mayor Pro Tempore Sellers recused himself from this item due to a conflict of interest and excused himself from the Council Chambers.

Council Member Carr inquired as to the issue before the Council.

Jan Landenthal indicated that South County Housing is requesting an extension to the Measure P timeline for the Morgan Station project located on McLaughlin Avenue. She indicated that originally, the extension request was submitted because she was concerned that the project may be delayed due to the weather. She stated that South County Housing values its working relationship with the City.

However, she felt it important to bring an issue to the Council's attention. She stated that City agreements require certain insurances be provided by the developer, including certain liability policy endorsements. She submitted endorsements that satisfy all the written requirements under the subdivision agreement. In addition to this, the City previously accepted the same insurance from her on two separate occasions in the past year; one as recent as last September. In good faith, she purchased the insurance policy which is none refundable in the amount of \$300,000 for the two projects affected by City requirements: Morgan Station and the Watsonville Road teacher housing project. She indicated that approximately four weeks ago she learned that City staff was requesting additional refinement to endorsements for completed projects for a 10-year period. She stated that not only is this requirement not reflected in the subdivision agreement, it is not available to her based on changes in the insurance industry. She said that in addition to this, South County Housing is indemnifying the City through the subdivision agreement. She stated that South County Housing has the completed operations coverage for the full 10-year period. Therefore, should a problem occur in the future, which will be unlikely, the City could make a claim against South County Housing and its policy. It was her belief that the insurance provided by South County Housing satisfies the written requirements. She expressed concern that South County Housing is at a stalemate without a clear path on how to achieve resolution. She stated that staff has indicated that this might require a Council policy direction and that this may mean a delay until sometime mid to late January before such a policy action can be made. This would result in additional costs to South County Housing for this time period, indicating that she has paid all city fees and is paying interest on these fees. She also has to provide bonding should the final map not record this year. She did not want to make an issue on things like this, but felt that it was important to bring this issue to the Council's attention.

City Manager Tewes said that it is a condition of subdivision improvement agreements that the City be indemnified and insurance be in place to indemnify the City subject to the approval of the risk manager. He informed the Council that staff has had conversations with other developers who are having difficulty obtaining insurance as the insurance industry values this risk much higher today than it ever had, making it impossible to obtain insurance or making it available at a high rate. He said that the City has been trying to be creative about how it can obtain the proper insurance. He stated that Jack Dilles is the City's Risk Manager and has worked with the City Attorney in evaluating the risks, determining how best to protect the tax payers.

Director of Finance Dilles stated his concurrence with the facts as described. He said that it is true that the City is having problems securing the coverage that it has historically required. Also, the standard subdivision improvement agreement language does not explicitly call for what is referred to as "completed operations coverage." He said that the insurance market is making it difficult to obtain this insurance and that when it is available, it is very expensive. It seems to be made available to larger developers versus small developers. He said that it was important that the City approach the entire development community consistently and not make one set of requirements for one part of the community versus another. He indicated that it has been suggested that South County Housing may be a good risk as they have been developing in the community for many years and that they have a good relationship with the City versus a developer who may only be in the community temporarily. He stated that it is difficult to quantify all the risks and come up with a formula that is practical. He informed the Council that staff has been talking with the City's advisors (ABAG Plan) on getting some ideas on how the City might be able to proceed. He felt that the City can work through this issue, working with the

City Attorney, to make sure that it is approached in the proper manner before moving ahead.

Council Member Carr noted that Ms. Lindanthal has stated that South County Housing has purchased coverage based on what they have done and what was acceptable to the City in the past. He inquired why insurance coverage is different from today's perspective.

Mr. Dilles said that as the risk manager, it is his job to review all the insurance documents that come through the City. He felt that review of South County Housing's insurance was an oversight. He looked at the documents that were submitted previously under prior agreements and saw that it included completed operations coverage and did not pursue it to the point of receiving the documents that showed that the coverage would be extended to the City. He stated that South County Housing has a good policy in protecting themselves for ongoing operations and completed operations coverage; protecting them during the period of construction and after construction should they be sued. What the City is looking for is extending coverage to the City as an additional insured. He said that it has been pointed out that South County Housing and other developers would agree to indemnify the City. He said that staff is concerned that a developer may not be around some day or that financial capabilities would not be in place to be able to indemnify the City. He said that the risk is the City being sued (liability) that staff is trying to protect against and that it is not the facility itself. He informed the Council that the City has not had a claim associated with a South County Housing project.

Mayor Kennedy inquired whether insurance companies have changed the language in this respect where some developers' policies would indemnify the City while others would not.

Mr. Dilles responded that the insurance language has been an evolving process. He said that going back a number of years, there was an endorsement form entitled 1185 that applied in November 1985. This endorsement was easy to obtain and provided solid coverage to additional insured for ongoing operations. The insurance industry then complicated this insurance coverage more than likely as a result of claims and lawsuits. The insurance coverage was split up and then became sets of endorsements for the various types of coverage. Now, it has become more and more difficult to obtain the completed operations insurance, but not as difficult to obtain the ongoing operations coverage.

Mayor Kennedy indicated that the same issue was brought to his attention by Mr. DiConza, Mr. Garcia and others. He felt that this is more than a general problem.

Council Member Carr stated that he sees a difference between a completely private project and one in which the City is a partner. He felt that the issue affects not only this project but potentially the teacher housing project in which the City is a significant financial partner and of priority to him, the entire Council, and the Redevelopment Agency for some time. He felt that this places the project in a different category versus being a private/for profit project. He recommended that the City find a solution in a timely fashion as it is one of the issues being faced by South County Housing and could result in project construction delay. He stated that he appreciates staff's willingness to sit down and see what can be done about the issue and recommended that it be done on a fast track basis. He indicated that in his four year tenure on the Council, insurance has been a frequent topic before the Council, including the discussion about what is an acceptable risk. He felt that the City has to define what it considers an acceptable risk.

Mayor Kennedy said that insurance/risk is a constant a moving target and that once the City adopts policy statements as they relate to insurance, insurance companies change the rules. This results in the City being in the same position as it was before. He indicated that he has been told by a contractor that they are bonded to insure against this type of situation. He inquired whether this bonding provides the City some protection.

Mr. Dilles said that bonds have not been a problem as they cover performance, labor and materials. Bonds ensure that facilities are properly constructed. If they are not, the bonds can be used to correct the problem. However, bonds do not cover liabilities or lawsuits of a third party. He indicated that the City is trying to protect against defects in the off site improvements (e.g., curbs, gutters, sidewalks, streets, sewer and water lines, or movement of land) that could cause considerable damage.

City Attorney Leichter said that if defects are attributable to what a developer has done, it would be appropriate to turn around and tender the lawsuit to the developer. She noted that the City has a \$100,000 deductible. If it is a situation where it is the City's fault for not maintaining the project after being accepted or some other extraneous circumstances, the City would defend the case. However, if the problem is caused by the developer, the City would like the ability to have the recourse against the developer even after acceptance of the project.

Ms. Lindanthal stated that South County Housing has been in businesses for 25 years and will be around many more years. She felt that in South County Housing's circumstances, the risk is minimal. She clarified that South County Housing is not asking for a special exception, but asking that the City accept the insurance that they have provided and has been accepted in the past. Doing so will allow this project to move forward.

Rocke Garcia said that this is an unfortunate insurance situation/issue and that it is not something caused by builders or cities. He indicated that the 1185 has been given to developers free of charge over the past 25 years. He said that the offsite improvements cost the Capriano project approximately \$800,000. In order for him to get the 1185 for the short time period he would be there would cost him over \$100,000. He stated that Sacramento has adopted a 10-year warranty where project developers are responsibility for structural faults. He said that this is an issue that the Home Builders Association is trying to address as this a serious problem. He requested that the City form a committee so that Morgan Hill can address this issue.

City Attorney Leichter noted that the request before the Council this evening is predicated on a letter of request to extend the development agreement based on the findings cited in the resolution before the Council which includes extended City processing of the subdivision improvement plans and delays with the issuance of subdivision bonds. She stated that it was not necessary for the Council to address the insurance issue at this time. She said that staff would appreciate the opportunity to conclude its research and return to the Council with a recommendation for any policy changes from current practice.

Council Member Grzan concurred with the statements as expressed by Council Member Carr. Should the City have a partnership with an agency such as South County Housing, he felt the City should consider sharing responsibilities, working with them to make sure that their investment and the City's investments are adequately funded and protected.

No further comments were offered.

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Pro Tempore Sellers absent, **Adopted** Resolution No. 5874 as recommended by staff.*

Ms. Lindanthal said that adoption of the resolution, as recommended by staff, would result in South County Housing being placed on hold until January 19, 2005, at a minimum, in order for the Council to accept the insurance that has been previously accepted by the City in the past as it would require Council action. She stated that her concern is not the delay but having South County Housing's insurance accepted so that they can record the final map and move forward with the project. She informed the Council that staff will not sign off and allow the final map to be recorded nor permits to be pulled until the insurance issue is resolved. This results in a minimum of an additional \$10,000 out of pocket costs, carrying costs, and cash flow issues.

Mayor Kennedy recommended that the motion stipulate an agreement as an exception for South County Housing in this case while staff works on the insurance issue.

City Attorney Leichter expressed concern that the issue of the insurance was not referred to anywhere in the letter of justification, staff report, or the resolution before the Council. This is a secondary issue that was brought to the attention of the Council. She requested that staff be given the opportunity to return to the Council with a comprehensive risk analysis chart of situations where the City is a co partner and may recommend that the risk be lowered; perhaps requiring lower insurance. If staff returns with a risk management policy to the Council at the first Council meeting in January, this should not be too great a delay.

Ms. Lindanthal informed the Council that she cannot record the final map until the insurance is signed off. She indicated that South County Housing does not need a 120-day extension as they are ready to move forward with commencement of construction. She said that she closed the construction loan 30 days ago and has paid all fees. She acknowledged that she originally requested a 60-day extension which was believed to be enough time to accommodate bad weather. She said that it has been approximately four weeks that she has been wrestling with the insurance issue.

Action: *Council Member Carr made a motion to stipulate acceptance of the insurance that has previously been accepted from South County Housing in order to allow them the ability to file their final map, pull their permits and commence construction.*

Council Member Tate felt that South County Housing representatives and staff might be able to work out a different solution that may be better. He recommended that the Council make a motion to accept the risk and issue the permits, figuring out the solution at a later date.

Council Member Carr said that he was not suggesting that the City not try to find a solution and would agree to Council Member Tate's suggestion.

City Attorney Leichter requested that the motion maker consider amending the motion to state that the reason the Council is approving the resolution and allowing the project to move forward is because the City is partnering with South County Housing on this project and that they are a non profit, low income housing developer. She said that inclusion of this statement would not set a precedent in the community.

Action: *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Pro Tempore Sellers absent, **Adopted** Resolution No. 5874, indicating that the Council is approving the resolution and allowing the project to move forward because the City is partnering with South County Housing on this project, noting that South County Housing is a non profit/low income housing developer.*

Mayor Pro Tempore Sellers resumed his seat on the Dais.

City Council Action

PUBLIC HEARINGS:

24. DEVELOPMENT AGREEMENT AMENDMENT, DAA: 04-01: TILTON-GLENROCK – Ordinance No. 1705, New Series

Planning Manager Rowe presented the staff report, informing the Council that the Planning Commission is recommending amendment to the development agreement to extend the time to obtain building permits for a period of six months, to March 30, 2005. Staff supports the six month extension as recommended by the Planning Commission based on the extended processing time and the fact that the applicant has demonstrated due diligence in moving forward with the project. He informed the Council that at the Planning Commission meeting, the developer stated that the six month extension would be acceptable.

Mayor Kennedy opened the public hearing. Roche Garcia, applicant, requested Council approval of the extension of time, indicating that it is his hope that the pads would be completed by the end of the year, weather permitting. No further comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1705, New Series.*

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council **Introduced** Ordinance No. 1705, New Series, by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1680, NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-02-03: TILTON-GLENROCK (APNS 764-09-006, 016, 017, 032 & 033) by the following roll call vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.***

**25. ZONING AMENDMENT, ZA-04-18/DEVELOPMENT AGREEMENT, DA-04-07:
MONTEREY-SOUTH COUNTY HOUSING – Ordinance Nos. 1706 and 1707, New Series**

Planning Manager Rowe presented the staff report, indicating that the request is to amend the zoning designation on a 4.8 acre area at the extension of Del Monte Avenue and Monterey Road, north of Wright Avenue. The zoning amendment request would change a portion of the property facing Monterey Road from general commercial and R-2 on the back portion to an R-3/Residential Planned Development. Also, being requested is the approval of a development agreement which would memorialize commitments made by the developer through the residential development control system, affordable competition process. He informed the Council that a request was made to designate portions of the parking area as “reserve parking,” parking that would be deferred and installed at a later date should it be determined to be necessary. He indicated that the Planning Commission agrees and recommends that the 18-parking spaces be designated as reserved parking and be developed as an open space amenity in a phase of the project. He stated that a parking utilization study would be completed 6-12 months after the site is fully occupied to determine if there is a need for additional parking spaces. At the planning commission meeting, there were comments received from area residents expressing concern about the project’s impact to on street parking. The study is to also determine whether or not the development would have any negative impacts on spill over parking onto the adjacent townhome development.

Mayor Kennedy referred to the corner gas station site that is now abandoned and inquired as to the zoning of that site and whether there was a possibility that this project could be expanded onto that site. If so, would it necessitate further zoning changes? He indicated that he was considering City acquisition of the site.

Mr. Rowe responded that the current zoning of the gas station site is general commercial. He said that there have been a number of inquiries about the gas station by individuals who are interested in reopening a gas station. He stated that the existing zoning of the site would not allow expansion of residential development and would necessitate a zoning amendment.

Mayor Pro Tempore Sellers recollected that Ms. Lindanthal indicated, at a prior Council meeting, that the commercial zoning district was far too expensive to consider acquisition of the site.

Mayor Kennedy opened the public hearing.

Jan Lindanthal noted that condition 14(m)(iii) calls out for a monument sign to be constructed at the Del Monte Avenue entrance. She requested that the condition be amended to stipulate the Monterey Street entrance as this is the intended main entrance to the development. She said that Reed Learner is the architect working with South County Housing to facilitate the historic renovation. She stated that it is his preliminary analysis that it would be difficult to move the historic building without destroying the interior condition of the materials and that the building would not withstand the move. She indicated that South County Housing would likely look at the historic “repair by replacement” guidelines. Should these guidelines be followed, it would not change the site plan but would result in reconstructing a new building versus moving the building. She stated that South County Housing staff has held several meetings with the neighbors and that the meetings were well attended by residents of Christine Drive,

the mobile home park, and the condominium complex. Concerns were raised about parking along Del Monte Avenue, and that by widening Del Monte Avenue; it would make it a faster moving street. There was a strong feeling about a 4-way stop at the intersection of Del Monte and Wright Avenues once the project is completed. She indicated that public works staff did not believe that there was sufficient traffic demand to warrant a 4-way stop. She said that construction noise is an issue that she would work closely with the neighbors. Concern was expressed about security of their property, particularly the condominium complex. Also, of concern was the impact to property values. She stated that in 1994 South County Housing completed a subdivision in Morgan Hill known as Sunrise Meadows, an affordable subdivision consisting of approximately 60 homes surrounded by market rate homes. She researched what the homes surrounding the affordable project were selling for. It was found that in 2002, the homes in Sunrise Meadows were selling from \$500,000-\$700,000, a price comparable to similar homes throughout the City. There is evidence that affordable housing, if done well, would not impact property values to adjacent properties. She informed the Council that the residents liked the fact that South County Housing located the single family homes along Del Monte Avenue. She stated that the neighbors favored the corner park as long as it was fenced and well lit. She indicated that adjacent residents expressed an openness and willingness to continue working with South County Housing on issues such as the CC&Rs to make sure that they are compatible with what they would want to see.

Mayor Kennedy inquired whether the gas station site could be incorporated into the project should the City be able to acquire the site.

Ms. Lindanthal said that incorporation of the corner lot would be a function of timing and how quickly it could come together as she is moving rapidly beyond the point of no return in terms of the site planning process.

City Manager Tewes indicated that it is staff's understanding that the gas station recently sold and that staff is not aware whether the new owners would be offering to sell the property to the City.

Ms. Lindanthal indicated that South County Housing was pleased that the Planning Commission supported the concept of reserving parking spaces. The six spaces that the Planning Commission did not elect to reserve are located where the large play structure is scheduled to be built. South County Housing would not want to see those spaces in this area so that individuals do not park up against the play structure. However, she was pleased that the Planning Commission was willing to test the concept. She stated that she would like to see all 24 spaces reserved as proposed.

Council Member Tate said that in reading the staff report, he found that South County Housing had a lot of experience in other locations where it is stated that they did not need much parking. Therefore, he felt that South County Housing could proceed and try it incrementally, reserving as much parking spaces as possible until needed. He understood that the Planning Commission was concerned about inadequate parking. He said that it was not clear to him how South County Housing would install the reserved parking.

Ms. Lindanthal felt comfortable with the 24 spaces being reserved as there would be more than enough parking spaces made available.

Council Member Carr referred to the Royal Court Apartments. If Mr. Learner is correct that you need to rebuild the historical structure, it was his assumption that the building would be rebuilt as an identical replica to what was there. This results in rebuilding the building and not using the existing materials.

Ms. Lindanthal indicated that South County Housing believes that it came up with a creative solution on how to use the existing buildings.

No further comments being offered, the public hearing was closed.

Mayor Pro Tempore Sellers said that the intersection at Wright and Del Monte Avenue is more than 300 feet from his home but close to his neighborhood. He appreciates staff commenting that they did not believe that a stop sign would be needed at this intersection because of the traffic flow. However, he stated that there are unintended consequences to actions taken by the City. He said that the City has seen an increase in buses in residential areas in the last few years near Britton Middle School. He said that it is difficult to access Del Monte Avenue from Wright Avenue. He requested that staff consider this not only as a traffic count; but to consider it in terms of traffic flow. He felt that Wright Avenue should be considered more as an arterial. He said that he did not hear resolution on the speed bump issue as far as Del Monte is concerned. He said that it feels as though this is a dense area and that drivers should be traveling slowly through this section of town. He said that he appreciates the creativity and South County Housing's willingness to work with the City on the historic resource. He was pleased to know that the historical building would continue to be restored. He appreciated Ms. Lindanthal's thoughts on affordable housing as well as the concerns of the neighbors. He felt that leaving the site in its current condition would have a much greater impact on property value than undertaking this project. He said that when the City first considered this project, there was significant concern about placing residential units along Monterey Road. The Council has since agreed that the viability of the project requires residential along Monterey Road. However, he did not support efforts to expand beyond this, particularly in viable commercial areas. He noted that the general plan encourages other uses for key properties, particular corner lots.

In response to Mayor Kennedy's inquiry, Mr. Rowe said that two projects to the north have committed to extend Del Monte Avenue from Wright Avenue to Llagas Road. This would result in having a second means of access to the neighborhood for emergency vehicles. He stated that Del Monte Avenue would become a north/south connector street. He said that staff would support the request to have the entry feature on Monterey Road.

Council Member Tate stated that he does not like to recommend against the Planning Commission. However, he felt that this was a situation where the project could incrementally add the number of parking spaces as they are needed. He would support allowing 24-parking spaces being reserved.

Mayor Pro Tempore Sellers noted that staff indicated that in six months, a parking utilization study would be undertaken. He inquired as to the process and the opportunity for the City to notify the residents in the neighborhood about their ability to comment on the study.

Mr. Rowe said that if it is the consensus of the Council to reserve 24-spaces, Sections 8, 9, 11 and 12 located on page 194 of the agenda packet would need to be amended as follows: Section 8 would state

that a minimum of 113 spaces (as opposed to 119) shall be installed; Amend Sections 9, 11 and 12 to state “24-parking spaces” as opposed to “18-parking spaces. He noted that section 10 states that within 6-12 months of full occupancy, the City would conduct a utilization study, resulting in the review of the study on an annual basis. He said that a utilization study would include the evaluation of the parking impacts to adjacent developments. He indicated that the utilization study could include a survey of residents in terms of their own experience. He said that the Council could include, under section 9, that the study is to include extending the survey to the residents adjacent to this project to allow them to comment on how the project has impacted their development. This would be factored into the results.

Mayor Pro Tempore Sellers supported including a survey to be filled out by adjacent residents in order to give them the opportunity to comment on the utilization study.

Council Member Carr requested that staff address the two surplus allotments. He inquired whether these two units can be used in order to the Council’s goal of dedicating more units to the downtown.

Mr. Rowe said that the two units would not be needed by another affordable project in the fiscal year. He stated that typically, the City would look at granting surplus units to projects with partial allocation or current ongoing projects. He stated that staff would contact all potential eligible projects and inquire as to their level of interest in receiving the unused allocation. Staff would report the results to the Planning Commission. They would make the determination which project(s) would use the unused allocations. He noted that the downtown competition begins in fiscal year 2006-07 and that these are fiscal year 2005-06 units.

In response to Council Member Carr’s question, Mr. Rowe indicated that two units could be moved from the open competition to the downtown as the Alicanti and Mission Ranch projects would not be asking for the two units.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Waived** the Reading in Full of Zoning Amendment Ordinance No. 1706, New Series.*

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council **Introduced** Ordinance No. 1706, New Series, by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO THE ZONING DESIGNATION OF A 4.8-ACRE AREA FROM R2(3,500) AND CG, GENERAL COMMERCIAL, TO R3/RESIDENTIAL PLANNED DEVELOPMENT (RPD) AND ADOPTING A PRECISE DEVELOPMENT PLAN FOR A 67-UNIT MULTI-FAMILY PROJECT LOCATED BETWEEN MONTEREY ROAD AND DEL MONTE AVENUE, NORTH OF WRIGHT AVENUE (APNs 764-12-008, -009, -018, & -019)/(ZA-04-18: MONTEREY – SOUTH COUNTY HOUSING), amending Sections 8, 9, 10, 11 and 12 of the Development Agreement as recommended by staff, by the following roll call vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.***

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Waived** the Reading in Full of Development Agreement Ordinance No. 1707, New Series.*

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council **Introduced** Ordinance No. 1707, New Series, by Title Only as follows, **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT FOR APPLICATION MP-04-02: MONTEREY – SOUTH COUNTY HOUSING (ROYAL COURT) (APNs 764-12-008, -009, -018, & -019)/(DA-04-07: MONTEREY – SOUTH COUNTY HOUSING), amending paragraph 14(m)(iii) to stipulate the “Entry Feature at Monterey Road main entrance” by the following roll call vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.***

Redevelopment Agency Action

PUBLIC HEARINGS:

26. FIVE-YEAR IMPLEMENTATION PLAN (2004-2009) – Resolution No. MHRA-253

Director of Business Assistance and Housing Services Toy informed the Agency Board that staff made some minor text amendments to five pages of the Plan, including reformatting, and that a revised Plan has been distributed to the Council. He indicated that in 1994, California Redevelopment Agency law changed to require Five Year Implementations Plan that spells out what the Agency plans to do in terms of housing and non housing activities over a five-year period, including how cities plan to collect/spend tax increments. The second plan was approved for 2000-2004 and reflects the priorities of the Plan amendment. He indicated that this would be the City’s third implementation plan. He presented highlights from the last Plan as well as highlights for the proposed 2004-2009 Implementation Plan. He stated that it is proposed to collect a total of approximately \$68.2 in tax increments over the next five year period with \$52.4 million to be used for non housing activities and \$15.8 million to be used for housing activities. He stated that the City anticipates reaching its financial cap of \$147 million by this time. After this period, the Redevelopment Agency would no longer be able to collect tax increments for activities unless the City amends its fiscal cap prior to reaching the cap. He indicated that the City is collecting \$15.8 million in set asides but anticipates spending \$22 million over the five year period as it is proposed to spend the fund balance for projects during this time frame. It is further being proposed to spend \$36.5 million in non housing projects that includes the library, indoor recreation center, land costs for the aquatics center, street improvements, and economic development.

Chairman Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Agency Member Tate appreciated that staff presented a thorough Five-Year Implementation Plan.

Chairman Kennedy felt that it would be appropriate to report to the public on the Redevelopment Agency (RDA) accomplishments and what is expected to be done with the remaining funds available.

He recommended that this information be included in the budget. He indicated that he will be bringing this issue up at the Council retreat/workshop. He noted the staff report talks about a five year plan and that it is clear that the City is running out of RDA funds in the year 2008/09. He felt that it was time to discuss extending the RDA and that this needs to be done soon as it is a long process to go through. He said that this will be a subject for discussion at the Council/RDA workshop.

Agency Member Carr supported condensing the report and presenting the report to the public so that they can see the good work of the RDA. He felt that the Council needs to discuss what will happen when the City reaches its cap, not assuming that the City will extend the RDA. He supports having the conversation versus waiting to the point where the City reaches its cap which may result in a lot of the options being eliminated.

Action: *On a motion by Vice-chair Sellers and seconded by Agency Member Tate, the Agency Board unanimously (5-0) **Adopted** Resolution No. MHRA-253, adopting the City of Morgan Hill Redevelopment Agency Five-Year Implementation Plan (2004-2009).*

City Council Action

OTHER BUSINESS:

27. SPORTS COMPLEX CONCEPTUAL MASTER PLAN, PHASE I CONCEPTUAL PLAN AND OPERATIONS FUNDING OPTIONS

Recreation and Community Services Manager Spier presented a power point presentation on the outdoor sports complex conceptual master plan, phase I, including operation funding options. She indicated that the charge of the Parks & Recreation Commission and the Council subcommittee was to recommend a master conceptual design of the proposed sports complex. This group was to either accept the concept before the Council in January 2002 or come up with a new design. The group came up with a new master conceptual design. The second portion of the action was to recommend a phase I plan of a budget of \$2.4 million as allocated as this funding resulted in viable playing fields. Also, before the Council is the maintenance operation plans that does not adversely impact the General Fund. She indicated that there are no operating dollars being set aside to take over the sports complex at this time. Staff requested that the Council review and approve the sports complex master conceptual plan of \$10.65 million and to approve the phase 1 conceptual plan at \$2.5 million which is \$100,000 over budget. There are a couple of suggestions regarding the \$100,000: 1) the City can take the overrun from redevelopment, 2) look at general fund reserves, 3) borrow from the sports field CIP impact fees from future years, or 4) direct the subcommittee to cut \$100,000.

Lee Stimeitz, Belinger Foster and Stimeitz, landscape architect, addressed the difference between the older plan (multi use fields with baseball and softball overlaid over soccer fields); and the current plan (divides the area into soccer fields, a multi use football/soccer field on one side and baseball and softball fields on the other). He indicated that there will be a pedestrian connection between the aquatics center and the sports complex parking lots. Some of the ideas that came out of the committee meetings were: 1) maintain the soccer fields on the north side of the complex as they are today, and 2) take one field and make it into a synthetic multi use turf field that can be used for soccer or football. It is the idea to have

one premier field that can be used for both sports and used for tournaments. He stated that there are advantages to a synthetic field: 1) reduced water use and low maintenance; and 2) increase the amount of use on the field as it can be used at all times. He addressed the proposed uses, infrastructure, site layout of the various fields, concession stand, meeting room, and parking area. He indicated that the City could install the infrastructures (e.g. grading, installation of irrigation for outfields, grading the infields) and that the sports leagues would be responsible for finishing the infields (install final grade material, infield lines/turf, dugouts, basic backstops and fencing, but not the outfield fencing, allowing portable fencing in the first phase); addressing possibilities associated with a public/private partnership.

Council Member Tate said that the Council had requested that consideration be given to parking overflow from the aquatics center on the southwest corner of the site. He did not see parking incorporated in the phase I plan.

Mr. Steimeitz said that the aquatics center overflow parking is not shown due to the fact that the existing base material is located on the other side. Therefore, it would be less costly to install a simple parking surface versus taking the area where you want to extend the parking lot and install full grading that would make it a functional parking area.

Ms. Spier informed the Council that Glenn Ritter is looking at the aquatics overflow parking as a separate project and will return to the Council with a budget number. She said that this is an evolution of work that a subcommittee has put together. The report before the Council is a report on the Parks & Recreation Commission's findings and analysis. She addressed the operation and maintenance options and stated that four funding options were considered: 1) City operated facility with user fees; 2) non profit youth sports group alliance; 3) private/public partnership (e.g., Coliseum); or 4) privately operated (e.g., Big League Dreams). She stated that staff believes that a user fee would need to be allocated at approximately \$11.30 based on current maintenance level of other City sports fields with an anticipated cost of \$264,000, approximately \$169,000 toward a contractual relationship to maintain the field. Staff would help control and coordinate the schedule and custodial needs. She said that there is a desire for the Sports Alliance to work toward a non profit sports alliance and return with a proposal (e.g., lease the public pieces or partner with the City with a coordinated group). She indicated that the subcommittee and the Parks & Recreation Commission recommends that the City proceed with a request for proposal to find out what can be done with a public/private venture.

Ms. Spier indicated that the subcommittee was very interested in maintaining scheduling and control of the outdoor sports field areas and that the privately operated concept was not endorsed. Should the Council decide to explore the private/public option being recommended, it may require prioritizing 10 conditions that the subcommittee proposed to the Parks & Recreation Commission. She indicated that the Parks & Recreation has endorsed the 10 conditions that have been brought before the Council. It is requested that the Council direct staff to create and send out requests for proposals if a public/private partnership is desired, reviewing the potential negotiations that may occur with different proposals based on the conditions that the Council prioritizes. She informed the Council that another idea presented late into the process by Larry Winslow is that he be allowed to help move forward a sponsorship program, indicating that the Parks & Recreation Commission endorses the concept and requested that this proposal be sent back to them in order to work with the non profit sports groups, returning to the Council with a proposed schedule and criteria for sponsorship of the facility. Staff further requested that

the Council ask that a member of the Parks & Recreation Commission be appointed to work with the potential sports youth alliance. In terms of prioritizing the conditions, she said that a priority of the subcommittee is that the complex not be completely privately operated, noting that this condition may limit a number of responses to the proposal the City receives. The lease payment covers 100% or the majority of the operation and maintenance in funding needed for the outdoor and public areas and that the base program presented this evening (e.g., five ball fields, six soccer fields and a football field) be the program that moves forward. Further that \$2 million in capital dollars be attributed to the project for further development. Structured as a private/partnership is desired, and that the subcommittee acknowledges that there would be some give and take in the plan. She indicated that the subcommittee and the Parks & Recreation Commission would like to have the opportunity to review any changes made to the plan by the Council.

Ms. Spier informed the Council that the California Youth Soccer Association is leasing the facility until October 2005 and that the City does not have operating dollars to operate the site from this time on. She indicated that the Sobrato soccer complex is beginning their environmental review process and that they have chosen a consultant. The agreement will be going before the City of San Jose City Council on January 11, 2005. She indicated that there is a \$100,000 shortfall for the phase I plan.

Mayor Kennedy noted that the staff report indicates that \$2.45 million (page 264) has been budgeted for construction of the outdoor sports complex.

Ms. Spier referred to page 262 of the agenda packet, indicating that \$2.4 million for construction has been allocated in Fiscal Year 2005-06, indicating that the \$2.45 million identified by Mayor Kennedy includes \$500,000 for CIP administration

Council Member Tate inquired how staff would draft the RFP to be as flexible as possible.

Ms. Spier said that should the Council accept the report, as presented, staff would draft the RFP with the 10 conditions in mind. She noted that staff is requesting Council prioritize the conditions and that the response to the RFP would determine how well respondents are able to meet the conditions based on Council priority. She said that it is staff's understanding that the City does not have \$262,000 in funding to operate and maintain the facility. She said that there is a possibility that sports groups may be able to contribute a portion toward these fees. She noted that it was estimated to cost \$11.32 in rental fees per hour for teams to reserve use of the fields. Neither walk on practice times nor special events were taken into account. She clarified that it is the youth sports leagues' desire to have the City control the schedule or they would. However, they realize that in order for them to assist as a partner, they have to form a non profit alliance. She said that they would prefer to form their own alliance and control the schedule. The city's request to the youth sports leagues is that the City has a right to reserve some community time to use the fields. She said that there is an opportunity to share a portion of the concession proceeds as part of the lease if a minimum threshold is met, similar to the model used at the Community Playhouse.

Mayor Kennedy opened the floor to public comment.

Bob Benevento indicated that he represents Pony Baseball and that he is a member of the subcommittee working on this complex. He said that a number of years ago, a number of youth sports organizations

got together who were not familiar with each other and came forward with their own independent objectives. Over the past 11-12 months, these groups have come together and have come to appreciate what each is doing. He indicated that he is speaking on behalf of the Pony Baseball board president this evening. He requested that the Council endorse a public/private arrangement as Pony Baseball cannot afford the \$40,000 maintenance fees to operate the complex. This would amount to approximately 50% of their budget as it exists today and more than likely would represent most of their entire annual budget. He said that Pony Baseball wants to be clear that they are not endorsing any particular private entity as this is a Council decision. He said that there have been many meetings where the City met with private entities and that there may have been members of Pony Baseball in attendance, but clarified that they did not represent the Board's position. He said that Pony Baseball is interested in exploring some form of an alliance with other sports recreation leagues in the community as there are many benefits to be gained and endorsed moving forward with a sports alliance

Stu Nuttall indicated that he is resident who came across this great group and stated his endorsement of a public/private sector organization. He felt that with a local entity such as this group the City would have control of what is going to take place.

Craig Van Keulen, Parks & Recreation Commission Chairman, requested that the Council accept staff's recommended action and accept the proposed conditions that staff would like implemented as part of the continued work that the Parks & Recreation Commission is doing to refine the project. He indicated that Ms. Spier and Mr. Struve did a great job in working on this project and moved it forward. He felt that they should be commended for their work. He indicated that he also serves on the subcommittee, indicating that there are a lot of conflicting interests and that they have been able to bring together a cohesive unit to move the project forward. He felt that it would be an asset to the community to fully develop this property as it is currently being utilized by an outside group, and that it would be great to have the site used by the residents of the community.

Bill Conrad stated his support of the project. He said that he was an original member of the Parks & Recreation Commission and a founding member of the Morgan Hill Youth Sports Alliance that appears to have been resurrected. He stated that he deals with every sports group in town. He stated that this project has been a personal dream for many years and was pleased to see that there is a great possibility that the project would be constructed. He felt that there are several individuals backing this project who will make it happen. If the Coliseum is the group to be involved with the project, he felt that it will become an awesome project

Debbie Cupp, representing the YMCA, stated that should the City be looking at an existing building with a public/private partnership, that the Council considers how it may compete with the indoor recreation center. She felt that it should be a City priority to make sure that both ventures are successful.

No further comments were offered.

Mayor Pro Tempore Sellers felt that it made sense to proceed with a request for proposal (RFP). He noted that the entire Council has not been involved in the process. He recommended that the Council consider the 10 items listed as guidelines as opposed to prioritizing them as conditions. He indicated that he has thoughts as to which of the items were more important than others. However, he would agree to

proceed with the items as guidelines in order to receive RFPs. He recommended that the Council make a statement that it is not inclined to support a private operational model. However, should there be someone who wishes to submit a private operational model; the Council could take a look at the proposal as it may contain some items that make sense that could be incorporated into the project. He felt that the operations cost is a high priority. He agreed with the comments made regarding possible impacts to the indoor recreation center. However, he has not seen where the direct impacts might be. He felt that there may be significant opportunities to be highly complementary to what is taking place with the outdoor recreation and indoor recreation projects. He indicated that there were several items that were originally contained in the indoor recreation center (IRC) project that have since been eliminated because they were not cost effective or because they did not meet the criteria of meeting the public's needs that were felt to be important. However, he felt that the needs still exist and that there are still opportunities that can be incorporated such as rock climbing walls that would be desirable but were not deemed appropriate for the IRC. He said that it could be stated that there is not to be competition with the IRC but that there are opportunities to take some of the work done and expand upon them. He noted that the City is starting to meet the community's needs and the needs of the youth. He said that Morgan Hill has started to evolve as a recreation hub for Morgan Hill, South County and the entire region. He felt that there may be other opportunities that the City may want to look at and start to build upon in the coming months that have large positive impacts on the City's future. He said that the public/private partnership is not only an opportunity to meet the community's needs directly, but also an opportunity for the City to define who it is as a community in a much broader sense (e.g., opportunities to build one structure that might contain outdoor restaurant access, saving on plumbing and space; or outdoor concession stands). He would support moving forward with "guidelines" in the process.

Council Member Grzan inquired whether any of the fields would be lighted.

Mr. Steimetz informed the Council that lighting is not proposed in the first phase, but will be a part of the build out of the final phase.

Ms. Spier indicated that the proposal before the Council comes from the youth sports league and that staff did not ask the adults sports leagues what they require as they were not a part of the process. She said that the City's operational dollars were based on the youth sports leagues. She indicated that the operational cost that would include lighting would be approximately \$23 per hour (\$11.30 per hour user fee plus \$11.70 per hour for lighting). She said that staff does not know how much of the \$269,000 per year for maintenance would be offset with a public/private partnership.

Council Member Grzan stated that the City has a deficit and that he did not know how the City could move forward with projects that would increase their draw on the general fund. He stated that it was difficult for him to support the continuation of projects in light of the deficit. Also, of concern is the regional aspect that may come into play with City projects. He said that the visioning process that took place in the mid 90s was one such that these facilities were to be designed and built for local use. As the City moves into a broader definition of what these recreational facilities are, he would like to see more public input in the process so that the public understands the implication of a regional facility.

Mr. Steimetz felt that the issue of the deficit is a good point and thus the reason for looking at the public/private partnership. It may be that the income from a public/private partnership can cover the

maintenance cost so that there is not a deficit. This information would be determined through the RFP process and over time. Regarding community use versus regional use, he said that one of the items that all sports groups talked about was the significant income that comes from tournaments to be hosted by local youth sports groups. They may be able to charge for parking, gate admission, and additional concession fees. It is an idea to balance the community with a facility that may be appropriate for tournament use. This is one way that youth sports leagues can generate revenue that can be used to help pay for part of the maintenance costs through the revenues to be generated. He stated that the subcommittee was made up of representatives from the youth sports leagues, but that it was made clear that portions of time needed to be set aside for community use which would include adult use. It was not proposed to exclude adult uses from this facility and would be programmed as part of the scheduling.

Council Member Tate stated that he appreciated the work that went into this as it has been almost a year long process. However, he noted that he was not a part of the process or discussions. Had he gone through the process, he would understand some of the tradeoffs being made. He noted that the Council has always stated, as part of the Visioning process, that beyond the community and cultural center, the operations and maintenance would have to be paid for by the facility. Therefore, he felt that the Council has to meet this commitment to the public. He said that through the RFP process, it has to ensure that the operations and maintenance would be paid for and not be a burden to the general fund. He said that he did not understand the RFP process being suggested, but that he understood that it would be using the conditions as a skeletal framework; allowing variations in terms of how bids can be received. However, he felt that the City will have to lay out the financing in order to make sure that the City understands what will happen on the operations and maintenance side of the project. He stated his support of staff's recommended action(s).

Council Member Carr requested that the Parks & Recreation Commission agendaize the discussion of youth versus adult use. He stated that he wanted to hear visionary ideas about the uses. He was not sure whether the outdoor sports facility was the location for youth sports to take place and Community Park was the place that adult sports would take place. He inquired whether there were ways to ensure multi generational uses. He noted that this proposal addresses organized sports and not be just a walk on park or a place where kids can have a "pick up" game. He felt that the use and who will be using the facility, as well as the operations and maintenance costs, are things the Council needs to keep in mind. He noted that the staff report states that, as presented, the Phase 1 plan is \$100,000 over budget. He recommended that the City look at the \$1 million that has been earmarked for the relocation of the CYSA soccer complex instead of trying to identify other sources where the dollars could come from. He felt that this would be an appropriate use of some of these dollars, noting that the Council has not clearly earmarked these dollars. He felt that a good share of the \$1 million was to be used for the clean up of the site and that it would be a good use of these funds. He requested that staff look at the \$1 million as one of the funding sources for capital funds for the project. He echoed the fiscal concerns addressed by others.

Mayor Kennedy noted that the Parks & Recreation Commission was asked to go back and find a way to utilize the \$2.4 million available for the outdoor sports complex and forward a recommendation to the Council. He noted that this has been accomplished with a lot of hard work by all who have participated. He said that it would be difficult for him to attempt to undo any of this work. He stated that he would like to keep the private option open going through the RFP process as the City might be able to accomplish 95% of the goals at minimal or no cost to the City.

Mayor Pro Tempore Sellers noted that the proposal came within 4% of what the Council asked to be done. He recommended that the Council look at non RDA options for the funds such that the project does not exceed the \$2.4 million budget. He felt that the City needs to consider the maintenance and operations costs in the broader context. If the facility operates at a \$50,000 per year deficit based on operations and maintenance, but the City sees an increase in hotel tax by 3% and sales tax by 7% per year by what is done at this facility after the community's needs are met, he felt that this would be a great trade off, resulting in the City ending in the black. He felt that the Council needs to account for this revenue and not merely look at the strict operations and income directed from the facility in the broader context. He clarified that this does not suggest that the revenues go back into the facility itself. He felt that the Council needs to be cognizant of the broader impacts and the income opportunity on the broader community that this facility might have.

Council Member Carr noted that it has been raised by a couple of Council members and other individuals that the City continues to keep in mind the idea of competition with the IRC and how it might affect things as the City moves forward with the outdoor sports complex. He said that the sponsorship proposal that Mr. Winslow put together is a great proposal, noting that the proposal includes a timeline. However, he wanted to make sure that the Council does not step on the toes of other efforts that might be taking place. He recommended that the Council has a conversation with the Community Foundation as this was one of the initial goals of the Foundation. When the Council formed the Community Foundation, support of parks and recreation was one of the items that it always talked about. He said that he did not want to nickel and dime things versus going after significant sponsorships.

Mayor Kennedy did not believe that conditions should be concrete ones, but viewed as guidelines; ones that could be used as goals and objectives. He cautioned about the use of the funds earmarked for the soccer complex. He noted that the Council has committed these funds to outside entities (e.g., City of San Jose, soccer group).

Council Members Carr and Tate did not believe that funds have been earmarked for the soccer complex.

City Manager Tewes said that the Council has appropriated \$1 million of RDA funds to assist in the relocation of the soccer complex and that it was earmarked to a specific group. He informed the Council that staff will return to the Council with the RFP. He said that it is clear that the Council would like to make the RFP as flexibility as possible. However, it is appropriate, and fair to the proposers, that the City establish the criteria by which the RFPs will be evaluated. He said that staff will return with this information for Council review.

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Approved** the Master Conceptual Plan, the Phase I Plan, and Program and Cost Estimates.*

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Directed** Staff to Begin the Process for Architectural Proposals for Design of Phase I Plan.*

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Received** the Report from the Parks and Recreation Commission Sub-Committee on the Analysis of Maintenance and Operations Options.*

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Directed** Staff to Develop a Request for Proposals (RFP) for Private-Public Operator Options with the Recommended Criteria for City Council Consideration.*

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Directed** the Parks and Recreation Commission to Develop a Plan on Sponsorships.*

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Incorporated** Council comments as stated above.*

28. CABLE PUBLIC ACCESS PROVIDER CONTRACT

Program Administrator Eulo presented the staff report, indicating that Morgan Hill Access Television's (MHAT) contract will be expiring on December 31, 2004. He stated that MHAT has submitted a proposal to change some elements and deal points contained in the existing contract. He said that staff has developed a proposed replacement for the existing contract that would extend the agreement for several years. He identified the three items MHAT is requesting be changed and that were not incorporated into the proposed agreement: 1) A clear designation of a second channel to broadcast educational programming. He indicated that the agreement before the Council gives MHAT the option to request the second channel from the City, but does not grant the right via the contract. 2) They are requesting a larger percentage of the funding that the City receives to support both governmental and public access programming. Staff did not incorporate this request due to the fact that it would necessitate taking money from the general fund to support governmental programming. Given the City's fiscal situation, staff did not believe that it would be a good recommendation to forward to the Council. 3) A request to change the insurance provisions that are required. He said that this request would not be consistent with insurance provisions contained in all other City agreements.

Mr. Eulo informed the Council that he was recently contacted by an MHAT representative requesting one additional change. The change would be to section 7c in the agreement that would provide a security interest and specifies that the assets of the organization are to be made available to ensure performance under the agreement. He indicated that staff has prepared a change to this section should the Council consider it to be appropriate.

City Attorney Leichter stated that she had a discussion with Mr. Liegl about the requested change to Section 7c of the agreement. Should the Council support the request by MHAT, in principle, she was sure that she and Mr. Liegl can agree upon language that would be acceptable. She indicated that MHAT does not want to guarantee the agreement with property which has not been purchased or allocated with City funds. She was confident that something could be worked out.

Mr. Eulo informed the Council that the parent organization sponsors the Poppy Jasper Film Festival which has nothing to do with MHAT. He stated that MHAT does not want the assets that they may obtain through Poppy Jasper to somehow be put up as security interest for their performance as a public television access provider.

Mayor Kennedy indicated that he inquired early on about the original proposal to increase the total amount of funding going back to the rate payers.

Mr. Eulo informed the Council that MHAT has seen the significantly higher resources that communities to the south have obtained from Charter Cable. The memo attached to the staff report indicates that the City of Morgan Hill made a conscious decision not to pursue this path in 1988. Subsequently, the City of Morgan Hill was able to close a deal with Charter's predecessor, Falcon Cable, in order to rebuild the cable system faster. He said that Morgan Hill cable subscribers are paying much less for public, educational and governmental access services. These were good aspects of the decision. However, the negative aspect of the decision is that the City's resources are far fewer and that the facility in Gilroy is substantially better, more comprehensive and up to date compared to the one located in Morgan Hill. In addition, Gilroy has ongoing paid staff available to provide these services. He informed the Council that the MHAT representatives are requesting that the City consider engaging in some discussions with Charter on increasing the amount of support that comes from the cable subscribers to support access services. He indicated that staff has not had conversations with Charter on this aspect and that it was not his expectation that the Council would endorse the increase and charge the rate payers more money. He requested Council direction on whether it would like staff to pursue these discussions with Charter. He indicated that the current contract with Charter would be in place for approximately four more years.

Mayor Kennedy opened the floor to public comment.

John Liegl stated that he received the contract two days ago. Upon reviewing the contract, he identified some problems with the contract that he wanted to raise and submitted them in writing. He said that the Media Access Coalition of California has deep ties with the City of Morgan Hill. Their commitment to the City is great and they are taking steps to increase its services to the community. He said that this year MHAT has set five-year goals and that it is their intent to accomplish them year by year. They are becoming a diverse company, moving into other areas of communication with the Poppy Jasper Film Festival being one of the diversities. They are also applying for grants and plan to develop internet sites and radio programming, exclusive to South County. He said that the diversity will be a way to support projects such as MHAT. He noted that the budget for MHAT is approximately \$61,000. He indicated that the City Manager Tewes stated that approximately \$2,000 could be achieved through PEG fees. He stated that MHAT's budget had a shortfall of approximately \$3,000 which they were able to supplement through Poppy Jasper. He noted that the organization is trying to find other ways to obtain financing and get MHAT to where it will be operating in the black. As funding from Charter Cable through the City has decreased, they have found it harder and harder to keep a good budget. He stated that the contract before the Council this evening is their commitment and agreement with the City to provide the public access television service and possible future expansion of these services. He informed the Council that they are in contact with the school board and that they are discussing educational programming. He does not expect/intend to dissolve their relationship in the near future. However, the portion of the contract that states all of Media Access Coalition of Central California would be turned over to the City of

Morgan Hill would mean that the other endeavors would be at risk. He said that it was his belief that the insurance issue has been accomplished. Regarding the other issues raised by Mr. Eulo this evening, it was his belief that they could come to an agreement on these items. He said that MHAT wants to make sure that the other interests are saved for their needs as they grow as a company.

City Manager Tewes clarified that funding for both the public access channel and the governmental access channel have been declining because the cable penetration has been declining as residents chose other options other than cable.

Walter vonTagen said that MHAT is only receiving money from Charter for Morgan Hill and not from the service areas outside the Morgan Hill City limits. He said that next year, their total budget will be \$27,500; approximately one-third of what is paid to the executive director of CMAT in salary alone. He said that Mr. Eulo has made important points in the staff report. He referred the Council to the last paragraph of the staff report where Mr. Eulo states that the Council, at its discretion, could increase the funding to 50 cents per subscriber. He stated that this would bring in an additional \$2,000. He noted that the Poppy Jasper Film Festival was very successful, making a profit of close to \$10,000. He did not know what Gilroy's operating budget was but felt that it was over \$100,000

No further comments were offered.

Mayor Pro Tempore Sellers felt that MHAT was an effort that the City should continue to support. However, the challenge is the difficult budget times. If the City continues to increase rates for cable subscribers, it may result in loss of income from the number of cable customers. He stated that he would support sitting down and talking with Charter with a mind set of passing the financial assistance on to the rate payers. He said that it may be a positive move, on the part of Charter, to consider options and that the City talk to them about what they do in other communities and how they can be incorporated in Morgan Hill. He said that he would entertain the possibility of a modest increase in fees; perhaps 50 cents. However, he was anxious that the City would see rates increased at one end and then see a decrease in customers at a rate that exceeds the fee increase.

Mr. Eulo said that the City's current PEG rate is 48 cents per subscriber per month. Therefore, taking the fee to 50 cents would not be a significant hardship. He said that increasing cable costs may result in some individuals looking at their cable rates. However, to the extent that enhance local programming is made available through cable, would have a reverse affect. How these two things counter balance will remain a question. In response to Council Member Grzan's inquiry, Mr. Eulo indicated that the City does not measure Channel 17 and 19 viewership.

Mr. Liegl indicated that Charter Communications has not provided MHAT with the number of individuals who watch the public access channel.

Mr. Eulo stated that he would be willing to inquire whether Charter has viewer measurements for Channels 17 and 19.

Mayor Kennedy stated his support of increasing the PEG charge to 50 cents.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Authorized** the City Manager to Execute an Agreement with the Media Access Coalition of Central California for Public Access Services, Subject to Review and Approval by the City Attorney.*

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Supported** increasing the PEG fee recovery to 50 cents.*

Mayor Pro Tempore/Vice-chairman Sellers recommended that the Council/Agency Board consider item 35 at this time as there were several members in attendance for this item.

Action: *By consensus, the City Council/Agency Board **agreed** to consider item 35 at this time.*

City Council and Redevelopment Agency Action

OTHER BUSINESS:

35. DOWNTOWN REQUEST FOR PROPOSALS (RFP)

Director of Business Assistance and Housing Services Toy presented the staff, indicating that in July 2004, the City issued a request for proposal (RFP) to interested parties. At that time, proposals were due in September 2004. When the City received the proposals in September, staff reviewed the proposals with the Council's Economic Development Subcommittee (EDS) and that it was determined that additional information was needed from the proposers. The City provided the proposers a 60-day extension to December. As part of this, the City provided the same opportunity to individuals who received the RFP and did not respond to submit a proposal within the 60-day extension period. He indicated that the deadline was December 9, 2004 and that the City received five proposals: 1) Glenrock-Sunsweet site located in the downtown. The proposal is for a 45-50 for sale townhouse units and 4,000 square foot retail building. There is a need for assistance for the infrastructure at an estimated cost of \$1.9 - \$2.9 million. 2) Brad Jones – retail project. Two sites being considered: Sunsweet site and the corner of Third/Monterey. Being proposed is 10,000 square feet of ground floor retail with housing above. The request is for a \$250,000 grant for tenant improvements. 3) Gunter Brothers property located on Monterey Road, north of Main Avenue. The proposal is to remodel and expand the existing granary building into an 11,500 square foot, two story office-retail building. The applicant may apply for Measure C in the future for units to be constructed on the vacant property located behind the granary. The request is for \$363,000 from the Agency and the deferral of City fees. 4) Renovation of the Granada Theater. The proposal is to reconfigure the two-screen theater into a three-screen theater for art, classic and foreign/independent films. Applicant is not proposing to compete with Cinelux, but compliment it in order to capture the market and eliminate the possibility of others coming into the market place. The request is for a little over \$1 million in agency assistance. 5) Casa Diana – EAH project located at the southeast corner at Diana and Butterfield. The proposal is a mixed use development with commercial serving the courthouse and 80 mixed income housing units. Financing is being requesting at \$1.2 - \$6 million, depending on the mixed overall units.

Mr. Toy informed the Council/Agency that staff reviewed the proposal with the EDS and came up with a series of recommendations: 1) the renovation of the Granada Theater is the number 1 priority. He indicated that the Downtown Association states that this is also their top priority. 2) The mixed use proposal from EAH should be considered separate from the RFP process as it is an affordable housing project. 3) Other than the EAH project, the other proposals are to be considered separate or outside of the RFP process. This recommendation is being made as these projects would require a more in depth analysis and information on the proposals. He noted that a letter was received from the owner of the Flea Market property requesting \$1.3 million in Agency funds to assist with impact fees and infrastructure costs. He said that no other information was submitted from the property owner other than the letter requesting the \$1.3 million. He indicated that the EDS and staff are recommending that no further action be taken on this request as it would be a market rate residential project. With no other information being provided, it should be considered as a regular project that could compete under Measure C.

Mayor/Chairman Kennedy indicated that he and Council/Agency Member Sellers serve on the EDS. He stated that the subcommittee and staff had very little time to review the proposals as they came in late in the process. He referred to the comment made under the third bullet that states that other than the EAH project, no other proposals are being recommended for consideration and should be considerate separate from the RFP process. He stated that he did not recollect concurring with this statement, and that he would like to keep this option open.

Mayor Pro Tempore/Vice-chairman Sellers said that there are 2-3 different levels of projects being considered. There are those that seem to be small, in dollar value, are specific and anxious to proceed. There are projects that are in the planning process. There are housing projects that should be considered in a separate/different way. He concurred that the Granada Theater is a top priority for the Downtown Association. He disclosed that he might be involved with a small business in the downtown and that it may preclude him from voting on the Granada project. However, at this time, it is purely speculative. He felt that the Gunter and Granada projects are ready to proceed. He requested that the Council/Agency go through a reasonable and appropriate process with these two projects; expediting the process and returning to the Council on January 19, 2005. Staff to return with the status of negotiations and a concrete proposal. He felt that these two projects are close enough to fit the criteria to expedite the process and that relative small dollar amounts are needed. He felt that there is an urgency to the downtown as there are a lot of businesses that are in the verge of leaving. If the Council/Agency Board can make a positive statement to the community and show some positive actions, it will go a long way toward stabilizing the downtown community.

In response to Council/Agency Member Grzan's question, Mr. Toy stated that the \$310,000 request for renovation of the Granada Theater would be a grant and would not be paid back.

City Manager/Executive Director Tewes clarified that conditions would be associated with the grant.

In response to Council/Agency Member Carr's inquiry regarding the initial request for concept proposals, Mr. Toy indicated that a proposal was submitted by a different entity for the Gunter Brothers granary site and not by the proposed purchaser of the building. The proposal was refined with a

subsequent submittal. Regarding the Granada Theater, he stated that Mr. Wilkinson was not in the picture originally and that there was a different owner.

Council/Agency Member Carr noted that when the Council/Agency Board first put together the idea for downtown proposals, \$3 million were earmarked. It was loosely stated that the \$3 million would come from three pots of RDA funding: 1) housing dollars; 2) infrastructure dollars; and 3) economic development. If the City is dropping all of the housing projects from the first tier, they would be competing for \$2 million.

Mr. Toy identified the following funding sources: 1) \$1 million for housing, and 2) the other \$2 million would come from the 80% funding. He stated that the Sunsweet project could have an affordable component and could tap into the \$1 million for the low/moderate housing component. However, the details have not been worked out at this point.

Council/Agency Member Carr recommended that funding is made clear for the Gunter Brothers and the Granada Theater projects. He noted that Mayor/Chairman Kennedy commented that some of the proposals are being recommended for consideration separate from the RFP process at this time. He said that this may raise concerns as the City has been well over a year into the process of downtown proposals. To jump outside the process for some projects may seem a little disingenuous to those who may have been in the process for some time.

Mayor/Chairman Kennedy agreed that the City has to be fair to all who submitted proposals. However, the City has to look at the windows of opportunity. It was his belief that the Council/Agency should try and follow the process that was created as it has been a good process that has brought in a lot of good projects. However, he did not believe that the City should be a prisoner to the process and throw out potentially good projects just because they do not fit the process. He recommended that the City be flexible enough to make some adjustments, keeping in mind fairness to all applicants.

Mayor/Chairman Kennedy opened the floor to public comment.

Ben Fuller stated that he was in attendance on behalf of the Gunter Brothers project. He indicated that he is proposing to recycle the site and remodel an existing building into a retail-office use. He felt that the project would have a huge impact on the look and feel of Morgan Hill. He requested a short term loan of approximately \$288,000, a facade grant in the amount of \$75,000 and assistance in expediting City planning and permit processing in order to move forward with the project. He also requested prompt action to his request because he is bringing together a unique group of people to the process. The environmental remediation process is also an integral part of the process and has brought into play the State, the Santa Clara County Water District, and the environmental entity that will perform the remediation process. He said that approval of the project will eliminate an eye sore. Further, the project is a proposal for an 11,000 square foot retail-office building and that it will be of a style reminiscent of the buildings constructed in the 1920s. It was his belief that this project will enhance the downtown.

Action: *On a motion by Council/Agency Member Carr, seconded by Mayor Pro Tempore/Vice-chairman Sellers, the City Council agreed to extend the meeting time to 12:00 a.m. The motion carried unanimously (5-0).*

Michael Wilkinson, resident of Colusa, indicated that the Granada Theater proposal is an exciting one as it will revitalize the downtown. He stated that the Granada Theater, in addition to being a viable business once again, can also provide a great spin off affect for the downtown businesses. He said that typically, 50% of movie viewers go out to dinner before or after a movie. This can provide approximately 40,000 patrons to area restaurants in downtown. He stated that he would work with other downtown businesses on various cross promotions. He indicated that he proposes to divide the theater into three movie screens.

Mayor Kennedy noted that the Cinelux Theater is expanding and that there is a proposal to build theaters on the north side of the City. He inquired whether this project would be competing with the Cinelux Theater.

Mr. Wilkinson said that the Granada Theater currently has two screens. In the current environment and the level of customer expectation, the bar has been raised. He said that the Granada Theater auditoriums are in poor condition. He felt that reconfiguring to three screens is a good compromise between desiring the affect of a single screen theater with a live performance stage capability as well as making it a multi screen theater. He indicated that the main auditorium will have over 200 seats and will be equipped with a stage suitable for live presentations and small scale performances. In regards to competition with other area theaters, he said that the type of film programming that he plans on showing will be comparable to Cinearts Santana Row or the Old Camera 3 in San Jose and will not directly compete with the first run mainstream films that Cinelux currently offers. Expanding from 8 to 11 screens is not a very significant change in the overall screen count for the south valley. Granada's three screens would bring Morgan Hill to a total of 14 screens. He felt that this was an acceptable number and should be high enough to discourage potential competition from moving into the immediate area. He said that the potential for competition is real and that it may be wise for the Council to consider restricting other movie theater expansions within the City limits within a certain timeframe to ensure survivability for both businesses. He said that anything happening to the north, toward Coyote Valley, is an unknown to him at this time. He acknowledged that there will be a large population infill should Coyote Valley development move forward. He said that the Granada Theater will provide regional programming so that the type of film shown will not be the typical film you would see in Coyote Valley. He felt that the Granada Theater will have a unique mixture of films and live events. He indicated that the stage depth is approximately 12 feet with a usable depth of approximately 10 feet and 30 feet across.

Brad Jones felt that it was in the best interest of the community to build out the downtown. Speaking for the Downtown Association, he indicated that it was unanimous that the theater was the best and quickest way to help the downtown merchants and would help bring back some night life to the downtown. He addressed his proposal, indicating that it was his intention to help get another building built in the downtown. He said that there has been much discussion about the lack of inventory of buildings in the downtown. He said some of the current retail spaces are good starter locations for businesses and would fill up quickly if he moved into a larger building. He felt that he could help to get a building built by being an anchor for one of these projects. He would like to see a mixed use project with retail and office and/or housing for younger couples or active seniors.

No further comments were offered.

Council/Agency Member Grzan felt that these projects were appropriate for funding. He stated that he has always been a strong supporter of the downtown and that by investing in the downtown, the City invests in itself and its future.

Council/Agency Member Tate also stated his support of the projects but stated that he was not clear as to the recommendation.

Mayor/Chairman Kennedy indicated that staff and the EDS would be meeting again in January and will have more information about these projects. Staff and the EDS would return to the Council/Agency with more specific recommendations.

Mayor Pro Tempore/Vice-chairman Sellers felt that the process needs to be expedited, understanding the work that needs to be done. He would support hearing back on the Granada Theater and the Gunter Brothers projects on January 19, 2005.

Mayor/Chairman Kennedy inquired whether staff is requesting additional information that was lacking from the project proponents.

Mr. Toy indicated that staff has not returned to the project proponents to request additional information. He stated that staff had a brief conversation with representatives of the Gunter Brothers proposal and identified the information that was needed. He said that it is staff's goal, before furlough, to request additional information. The EDS is to meet in January 2005 and that staff and the EDS would return to the Council/Agency on January 19 with its analysis and recommendations.

Action: *On a motion by Council/Agency Member Tate and seconded by Council/Agency Member Carr, the City Council/Agency Board unanimously (5-0) **Accepted** staff's recommended action(s).*

City Council Action

OTHER BUSINESS (Continued):

29. 2004-2005 HAZRDOUS VEGETATION PROGRAM – Resolution No. 5875

Assistant to the City Manager Dile presented the staff report, requesting that the Council adopt a resolution setting January 19, 2005 as the date for the public hearing regarding weed abatement and June 1, 2005 as the date for the public hearing regarding brush abatement.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Adopted** Resolution No. 5875, declaring Weeds and Brush to be a Nuisance and Setting January 19, 2005 as the Date for the Public Hearing*

*Regarding Weed Abatement, and June 1, 2005 as the Date for the Public Hearing
Regarding Brush Abatement.*

30. DOWNTOWN AREA BUILDING ALLOTMENT

Planning Manager Rowe presented the staff report, informing the Council that the Planning Commission reviewed this item last night and will be forwarding a recommendation to the Council to increase the downtown area set aside from 40 to 80 units in addition to the vertical mix recommendation. Also, 50 units in each of the subsequent years in addition to the allocation are to be awarded to downtown projects. This would equal 215 units from 2006 thru 2009/2010 fiscal year. In addition, the Diana-EAH project could add an additional 85-120 units which could bring the downtown area totals to 300-335 units. He indicated that staff will be bringing to the Council a detailed report on the Planning Commission's recommendation on how the set asides should be distributed at the Council's January 19, 2005 meeting. He stated that the Planning Commission is not recommending that the Council advance the filing deadline from the September 1 date, so that there is an opportunity for the Planning Commission, as part of the review and evaluation criteria following this competition, to make adjustments to the scoring criteria to make downtown projects rate favorably.

Mayor Kennedy noted that the City Manager forwarded a memo that spelled out the Planning Commission's actions from last night's meeting via e-mail. He stated that the report states that the units total 215 units by the year 2010.

Mr. Rowe said that this number does not include the possibility that there may be some additional units through the affordable set asides for the Diana-EAH project that is also located in the downtown area. This could raise the number further to between 300 and 335 total units.

Mayor Pro Tempore Sellers said that he was pleased to see that the City is able to work through the Measure C process. He stated that there are two major issues that he would like to continue to work on as part of the process: 1) affordability of downtown housing; and 2) timing (e.g., four years).

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) **Received** the report.*

31. BUTTERFIELD NORTH CONNECTION STUDY

Deputy Director of Public Works Bjarke presented the findings of the Butterfield North Connection Study, required as part of the Circulation Element of the General Plan. He indicated that the study was meant to help the City define how it will align its roads at the north end of the City with a goal of connecting Butterfield Boulevard to Hale Avenue. He informed the Council that Robert Eckols, the City's traffic consultant, was in attendance and would address the three alternatives: 1) Madrone Parkway as a grade separated structure that would go underneath Monterey Road and the railroad tracks, connecting to Hale Avenue; 2) Cochrane Avenue, going underneath Monterey Road and railroad tracks, coming up to grade and connecting to Hale Avenue; and 3) Llagas Creek Drive – a road that does not

currently exist. The road is located south of Llagas Road, south of the Old Monterey/Monterey intersection. This alternative does not require bridge structures or grade separated structures. He stated that staff took this same presentation to the Planning Commission on November 9, 2004. Staff recommended Alternative 3, the Llagas Creek Drive, the preferred alternative, because it is the least costly and meets all the requirements of the circulation element. The Planning Commission stated that they did not care for Alternative 3 as the best alternative and requested additional information in order to choose from Alternatives 1 and 2. He informed the Council that staff has not formally engaged any of the affected property owners associated with the three alternatives. Staff felt that it was important to bring this presentation to the Council in order to receive direction.

Robert Eckols, Senior Associate, Fehr & Peers, presented a power point presentation on the findings that his firm came to, focusing on the three alternatives as presented by Mr. Bjarke. He indicated that the Public Utilities Commission (PUC) is no longer supporting at grade crossings of freight and commuter rail lines, noting that the City would have both in this situation. Therefore, it is difficult to receive this type of approval. The City will need to figure out a way to get across and connect between Butterfield, Monterey and Hale. He presented traffic volume counts from 2001 and early November 2003, after all the Highway 101 lanes were open. It was found that at the northern area, there was between a 30%-40% drop in the total volume in the north/south direction. He indicated that even some of the east/west approaches dropped substantially. A guesstimation was made in terms of the watershed at Tilton, in terms of traffic moving north and south. When you move to the 2025 conditions, he said that one of the City's models contained some assumptions for the Coyote Valley area. He contacted VTA and obtained their current regional model. He updated this with the land use assumptions contained in the model.

Mayor Kennedy stated that he raised a concern with the City of San Jose and the VTA in that the VTP 2030 does not include the build out of Coyote Valley.

Mr. Eckols indicated that the VTP 2030 includes the Cisco project (14,000 additional jobs in the area and a small number of houses). He agreed that the VTP 2030 does not include the complete build out of Coyote Valley.

Mr. Eckols addressed the three new alternatives and the existing general plan and addressed each as follows:

Existing General Plan

The existing general plan proposes an at grade crossing with four lanes connecting Hale and Monterey Road. Traffic would be dispersed at this point. Madrone, on the east side of Monterey Road was proposed as a two lane connector street to serve primarily the industrial park area. He said that the connection to Butterfield will be along Madrone to Butterfield and allows for individuals to use Monterey Road to access Cochrane and Butterfield. Connection to the freeway from Hale Avenue area would be indirect as an individual would have to shift onto Cochrane to access the freeway. He indicated that the estimate for this work would be \$2.3 million based on MH Engineering's estimation that includes right of way costs.

Alternative 1

Alternative 1 is the Madrone alignment that would go underneath the railroad tracks. This alternative would create three intersections: 1) at Hale Avenue; 2) one serving the entrance to the industrial buildings; and 3) a loop road to connect back to Monterey Road. The Planning Commission questioned whether there was a need for the connecting road in order to forgo the cost of the salvage yard. He indicated that a detail analysis has not been performed, but that the elimination of this road would result such that the two lane section of Madrone and the two lane section of Butterfield from Madrone to Cochrane would need to be widened. This is attributed to the added traffic that would be using the connection. Although it is a good connection, it does not directly connect traffic to the freeway. The cost for this alternative is \$16-\$22 million as it is not known the cost to acquire the salvage yard.

Alternative 2

Alternative 2, the Cochrane alternative. Four lanes would be taken underneath Monterey Road and under the railroad tracks, meeting up with Hale Avenue. This alternative has additional significant impacts in terms of residential takes. There are potential impacts to the gas station and the restaurants located at Monterey and Cochrane Road. There is a creek that goes through the area that would necessitate realignment of the drainage area. He felt that there were more impacts associated with this design versus the Madrone design. The actual structural cost for this alternative is slightly higher but that the right of way costs would be less than the other alternative(s) because it would not eliminate active businesses.

Alternative 3

Alternative 3 uses the connection that is proposed in the General Plan on Llagas Creek, maintaining the Tilton Avenue connection. He noted that there is some existing vacant property for the Llagas Creek connection. As the connection is contained in the General Plan, the connection would be installed with any development of property in the area. Tilton would not be widened from two to four lanes as proposed in the General Plan. It is proposed to slope Monterey Road somewhat from the center similar to what was done at Masten in Gilroy, making it a smoother transition. The approach would be widened slightly to provide a left turn lane from Tilton on to Monterey Road and a right turn lane to allow traffic to bypass any left turning vehicles. He said that the PUC could be advised that this is a safety and operational improvement to maintain the two lane road as a connector. Regarding the future traffic volumes, as it is a two lane connector, it would not carry as much east-west traffic on Tilton. Some of the traffic would be transitioned from Monterey to Hale and Hale to Monterey. This alternative has a cost estimate of approximately \$2.8 million and is closer to the original Madrone Parkway alternative.

Mr. Eckols addressed the findings that support why he believes there will not be a larger at grade crossing. He said that the regulations of the PUC and Union Pacific would not support at grade crossings. He did not believe that VTA would be a supporting agency of an at grade crossing because they are protecting the Caltrain corridor and trying to maintain it for commuter service. In terms of the two grade separation alternatives, if the City went forward with one of these, a four lane connection would be constructed. The cost would be \$15-\$23 million, depending on which alignment the City considers.

Mayor Kennedy stated that he supported alternative 3 for the interim, but felt that at some point, a long range alternative would be a grade separation when the funds become available. He said that it may be that high speed rail may be a viable option. He noted that alternative 3 does not provide a direct connection to Butterfield Boulevard, but that for safety reasons, it is one that is viable.

Council Member Tate agreed with Mayor Kennedy. However, if it is the City's long term goal to get the grade separation, it does not make sense that the PUC would not accept a phased plan to achieve the grade separation. He did not believe that the PUC would approve moving the at grade crossing from Tilton to Madrone Parkway by the fact that phase 1 would be moving the at grade crossing to Madrone Parkway and phase 2 is the grade separation at Madrone Parkway.

Mayor Kennedy said that he and public works staff met with the PUC and Union Pacific representatives, indicating that they did not support at grade crossings.

Council Member Tate expressed concern that the City would be spending a lot of money on an interim solution.

Mayor Kennedy stated that the Tilton grade crossing needs to be fixed.

Council Member Tate felt that a better solution would be to close the Tilton grade crossing.

Council Member Carr inquired whether the Bailey-Highway 101 intersection opening, connecting Monterey Road and Santa Teresa Boulevard, would be a benefit to the City. He said that the City always felt that it needed an east-west connection from Butterfield. If thought was given to having Butterfield extend further north (e.g., all the way to Burnett Avenue), would it lessen the ability of individuals to travel east-west in an area that could get congested? If so, this would force individuals to stay on Butterfield Boulevard longer, further north. This would remove individuals from the congested areas of Cochrane and Monterey Roads and perhaps solve some of the problems or give the City a broader window in which to work from.

Mr. Eckols responded that the Bailey-Highway 101 intersection would have some near term benefits. However, it would depend on the direction individuals are flowing. He stated that one of the missions of the study was to make the connection over to Hale Avenue. He said that traffic could be moved further to the north; moving traffic up to the high school area. This may be traffic the City may or may not want. Traffic could be taken to Burnett Avenue and then transitioned over. He noted that there are a number of developed properties that would interfere with an alignment to the north.

Council Member Carr felt that problems exist with the alternatives identified. He said that it appears that the City is trying to take the north-south traffic, move it in an east-west direction and disburse it between Highway 101, Monterey Road and Santa Teresa Boulevard. If the traffic could be kept on Butterfield Boulevard further north, and then move traffic onto Monterey Road, out of the congested areas of Morgan Hill, may buy the City more time.

Mr. Eckols said that a short term alternative would be to complete the connection from Cochrane to Madrone Parkway. This alone would give individuals more options of coming further north and

avoiding the congestion taking place at Cochrane and Monterey Roads. This would split the traffic a little more.

Council Member Grzan felt that the Council has a solution before it, but that the City does not have the funding for the solution. Now, the City will make do with an alternative that will not provide the long term solution needed. He recommended that the City work on funding and make the right decision, looking at the long term solution; connecting Cochrane Road to Hale Avenue.

Mayor Kennedy suggested connecting Cochrane Road to Hale Avenue be the long term solution, but that in the interim, the other two alternatives are performed. He noted that the City does not have the money to connect Cochrane Road to Hale Avenue at this time.

Mr. Eckols said that as traffic builds up and should it take the City 10-15 years to secure funding for the grade separation, the combined alternative 3 would give the City some breathing room should some of the Coyote Valley traffic use this facility. He indicated that the Tilton portion is approximately \$500,000-\$700,000 of the \$2.5 million and that fixing Tilton Avenue is a relatively low cost solution to an existing safety and operational problem. Fixing Tilton Avenue would buy the City capacity over the next 10+ years and gives the City time to build up the money for a grade separation as a strategy.

Council Member Tate noted that figure 11 of the report talks about \$4.5 - \$5.5 million.

Mr. Eckols indicated that the correct number is the one that was identified in the presentation and the hand out. In response to Council Member Carr's inquiry, he indicated that there is a lot of demand and traffic associated with the spur identified with the Madrone Parkway that allows individuals to go back to Monterey Road. He stated that this proposal would close one driveway along the frontage of an existing building. There would be a consolidated access and stated that the loop back road provides a direct way for individuals coming out of the commercial property to get back over to Monterey Road and head north. He indicated that it is not being proposed to direct a lot of traffic through the residential area. With the Cochrane Road proposal, there would be a two bridge structure proposed: one for the road and one for the railroad track. It would include a channel section in between. There would be the same number of bridges as proposed with the Madrone Parkway alternative.

Mayor Kennedy said that in looking at the side street coming off of Cochrane Road, it is close to the new street that is part of the Scott Schilling proposal. He inquired whether the street in the Schilling project was designed to handle this kind of traffic and whether it could be required that this street be built to the appropriate standard in order to keep the option open for future use.

Director of Public Works Ashcraft informed the Council that the street in the Schilling project could handle additional traffic. He indicated that the general plan states that the property would be substantially impacted in its development potential because of the four lane road located across the property. He said that the property owner is well aware that the City cannot build the at grade as listed in the general plan and that the owner would like the City to do something that would allow him to develop his property. He stated that a general plan amendment would be needed as the general plan states that Tilton Avenue must be closed. Therefore, he did not believe that the City would want to spend a lot of money when the current general plan states that Tilton Avenue should be closed. He said that for \$½

million, the County was able to elevate one side of Masten Avenue to eliminate the hazard. If the Council does anything with the general plan in the short time that states that Tilton Avenue is to remain open, staff would return immediately and include \$500,000 in the CIP in order to fix the problem and leave Tilton Avenue open. He stated that staff can design and build this improvement in less than a year. If a different alternative is left as a long term option in the general plan, property owners would need to be notified and be invited to attend a general plan hearing if the City decides that it would be bisecting an established residential neighborhood with a major roadway. He felt that there would be substantial public testimony should bisecting two residential areas be contemplated.

Mayor Kennedy felt that alternative 3 was the alternative the City should proceed with. However, for the long term, he felt that the City needed another grade separated crossing, perhaps at Tilton Avenue.

Council Member Tate felt that Madrone Avenue should be the location of a second grade separation crossing.

Mayor Kennedy opened the floor to public comment.

Chris Bryant felt that Council Member Carr raised an interesting point regarding Butterfield Boulevard and how far it should be extended. He said that this was an issue that was previously addressed. He inquired whether traffic counts included the very short term ramp up of traffic attributed to the new high school. As the high school adds more classes, it will add more traffic to Monterey Road and Burnett Avenue. He felt that having a long term plan to push Butterfield to Burnett would move some of this traffic as a direct flow to the high school. He stated that another alternative would be to move traffic off of Monterey Road through the downtown because it would give individuals an incentive to get onto Butterfield sooner at Tennant or Dunne. He noted that traffic would need to get back onto Monterey Road in order to get to Burnett Avenue. He recommended that the City look at getting traffic onto Butterfield sooner as a long term plan.

No further comments were offered.

City Manager Tewes said that in light of the PUC's decision, it would seem to be appropriate to amend the City's general plan to provide for an alternative to meet the general plan traffic goals. He requested Council direction as to the preferred option to study in the environmental report and to initiate the general plan change knowing that some of the alternatives cost a lot of money and have impacts on private property owners.

Mayor Pro Tempore Sellers stated his support of pursuing a long term solution. He said that he would hate to pass up an opportunity to include an at grade crossing improvement at Tilton Avenue with the assistance of a Measure C project to be constructed. He noted that there were two alternatives that address long term solutions. Instead of picking one, he recommended that the City look at both alternatives and go through the public process, looking at the alternatives so that citizens can be made aware of the possible options.

Mayor Kennedy recommended adding a third alternative; making Tilton the possible solution.

Mayor Pro Tempore Sellers said that the east side of Monterey Road and this quadrant is impacted already and that there would be a greater impact as Sobrato High School adds classes.

City Manager Tewes said that if the City was to amend the general plan to accommodate the traffic goals with a very costly alternative, it would be the City's obligation to identify the resources to accomplish these goals. He noted that the City has in place a traffic impact fee program of approximately \$80 million and that the City would have to increase traffic impact fees 25% to accomplish some of these more expensive options. Staff believes the City can meet the general plan traffic goals through 2020 with option 3. He noted that the Council reviews the general plan every 10 years and that in five years, the Council would be reviewing the general plan again. Therefore, the Council may want to place the long range options on hold, to be considered as part of a larger review of the entire general plan rather than adopting two or three options to amend the general plan at this time, noting that there is no funding associated with right of way impacts as this time.

Mayor Kennedy noted that he and Mayor Pro Tempore Sellers support alternative 3.

Council Member Carr said that with the review the Council has undertaken this evening, alternative 3 makes a lot of sense. He inquired whether there was an urgency for the Council to take action this evening.

City Manager Tewes said that there is a property owner who is anxious to have this issue resolved as he needs to know whether he can develop his property located west of the railroad near the Madrone crossing with or without the grade crossing.

Council Member Carr stated that Mayor Kennedy's suggestion of looking at Tilton Avenue as a possible grade separation is intriguing. However, he did not know if he could support its inclusion as an alternative this evening.

Mayor Kennedy clarified that it was his recommendation that Tilton Avenue and the other two grade separations be a long term solution to be achieved within the next 20 years. However, he felt that the City needs to proceed with alternative 3 in order to meet the current general plan requirements.

Council Member Tate did not see that the Council has any other alternative from a budget stand point.

Mayor Pro Tempore Sellers felt that alternative 3 would hold the City in good standing and concurred that the City has to give thought to long term solutions.

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Mayor Kennedy, the City Council unanimously (5-0) **Directed** staff to move forward with Alternative 3 and that **further consideration** be given at a future Council meeting to Alternative 1 and 2 as well as any other options.*

Action: *On a motion by Mayor Pro Tempore/Vice-chair Sellers and seconded by Council/Agency Member Tate, the City Council/Agency Board unanimously (5-0) **agreed** to **extend** the meeting to 12:30 a.m.*

32. ALTERNATE APPOINTMENT TO THE CITY'S 2006-CENTENNIAL PLANNING STEERING COMMITTEE

Mayor Pro Tempore Sellers said that it was his understanding that the Council appointed a centennial steering committee and that this steering committee would be appointing the centennial committee members. He expressed concern that the process was moving ahead and that the steering committee was undertaking the charge of the centennial committee. He stated that he would like to know whether the steering committee is planning to move forward with the planning of the 2006-centennial celebration and not appoint other individuals. He stated that he was pleased to see that the City Clerk was interested in working with the steering committee. Therefore, he was not inclined to appoint another citizen to the steering committee this evening. He noted that the Council did not appoint Council members for the initial planning phase. He recommended that the Council hear back from the steering committee to find out the direction they are heading and what they need from the Council. At that time, the Council can determine who it will appoint to assist the committee.

Mayor Kennedy said that it was the Council's original intent for this to be a steering committee that would put together the planning of a broader committee. He informed the Council that the steering committee is identifying other individuals and various organizations to expand the steering committee. Many of the members of the steering committee would like to be in leadership position. He felt that it would be appropriate for the steering committee to present the Council with a report.

Action: *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Grzan, the City Council unanimously (5-0) **Directed** that the 2006-Centennial Steering Committee report back to the Council.*

City Council and Redevelopment Agency Action

OTHER BUSINESS (Continued):

33. SELECTION OF CITY COUNCIL MAYOR PRO TEMPORE AND REDEVELOPMENT AGENCY VICE-CHAIR

Mayor Pro Tempore/Vice-chairman Sellers noted that he was selected to serve as Mayor Pro Tempore in his third year of his four-year term in office. He suggested that Council/Agency Members Carr or Tate serve as Mayor Pro Tempore this year or the next and that Council Member Grzan be considered for appointment as Mayor Pro Tempore in his third year in office.

Mayor/Chairman Kennedy felt that it was important to have some experience on the Council before a Council Member is appointed to serve as Mayor Pro Tempore but does not believe that the experience needs to be several years. He felt that Council Member Grzan could be considered next year for appointment to the Mayor Pro Tempore position.

Council/Agency Member Grzan stated that it would be appropriate to consider a newly elected official in the second year of their term for Mayor Pro Tempore.

Acting as City Council:

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (5-0) **Appointed** Council Member Tate to Serve as Mayor Pro Tempore.*

Acting as Redevelopment Agency Board:

Action: *On a motion by Agency Member Sellers and seconded by Agency Member Carr, the Agency Board unanimously (5-0) **Appointed** Agency Member Tate to Serve as Vice-Chairman of the Redevelopment Agency.*

34. ANNUAL FINANCIAL REPORTS FOR FISCAL YEAR 2003-2004

Director of Finance Dilles presented the staff report, noting that it was indicated earlier this evening by the City's independent auditors that the City received a clean, unqualified opinion for the City's financial statements as well as for the Redevelopment Agency statements. He noted that the auditors provided the City with a compliance letter which states that the City is in compliance with all the redevelopment requirements under state law. In terms of the City's situation, the Comprehensive Annual Financial Report shows that the general fund has an excess of \$10 million in reserves. Even though the City is still concerned about bringing its revenues and cost into alignment, the City is still in a strong financial position in the general fund. In the City's Redevelopment Agency capital projects fund, the report shows that the City has approximately \$900,000 in the unencumbered fund balance at June 2004 and approximately \$6.8 million in the housing fund balance.

Mayor Pro Tempore/Vice-chairman Sellers referred to the introduction section of the financial report, second bullet, regarding the City's reserves where it states that the unrestricted assets includes amounts designated for the general reserve. He said that it would be helpful to separate the three reserves for: 1) economic uncertainty, 2) the general reserve; and 3) emergency funds. Further, that the fire, aquatics, etc. be separated out. He recommended that this be added to the Council's goal setting session discussion.

Mr. Dilles said that it was his understanding that at one time the Council identified, in a policy, the specific amounts for the components of the reserves as identified by Mayor Pro Tempore Sellers. The Council stated that the City has a requirement of a 25% reserve for the purposes enumerated by Mayor Pro Tempore Sellers and that it was not necessary to spell it out in detail.

Mayor Pro Tempore Sellers recommended that the discussion of separating the reserves for future budgets be discussed as part of the retreat and part of the budget discussion.

Mayor/Chairman Kennedy opened the floor to public comment. No comments were offered.

Acting as City Council:

Action: *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Accepted** the Comprehensive Annual Financial Report for Fiscal Year 2003-2004.*

Acting as Redevelopment Agency Board:

Action: *On a motion by Agency Member Tate and seconded by Vice-chairman Sellers, the Agency Board unanimously (5-0) **Accepted** the Financial Statements for the Redevelopment Agency for Fiscal Year 2003-2004.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 12:20 a.m. in memory of Bob Engles.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY



REDEVELOPMENT AGENCY
STAFF REPORT

MEETING DATE: *January 19, 2005*

**ANNUAL STATE REDEVELOPMENT REPORTS
FOR FISCAL YEAR 2003/04**

Agenda Item # 16

Prepared By:

Finance Director

Submitted By:

Executive Director

RECOMMENDED ACTION:

File the 2003/04 Redevelopment Agency's Annual Report of Financial Transactions, Housing Annual Report of Housing Activity, and Property Report.

EXECUTIVE SUMMARY:

State law requires that each redevelopment agency annually prepare and submit to the State certain reports. It also requires that these reports be provided to the local legislative body, so these reports are being presented for your review. Staff has prepared and submitted to the State the attached "Annual Report of Financial Transactions" and "Annual Report of Housing Activity".

The Annual Report of Financial Transactions provides the details of Agency account balances at 6/30/2004 and financial activities for the 2003/04 year. It also includes the annual "Statement of Indebtedness", previously submitted to Santa Clara County, which summarizes all Agency indebtedness, as of 9/30/2004, as defined under State law. The Agency's indebtedness is primarily comprised of obligations related to the low and moderate housing set-aside, statutory pass-throughs to other agencies, the County Courthouse, property acquisition and land lease for the Aquatics Center, and various construction contracts. Also included in the report sent to the State, but not attached to this staff report, were the Agency's financial statements for the 2003/04 fiscal year that were previously provided to the Board.

The attached Annual Report of Housing Activity provides financial and narrative detail concerning the Agency's 2003/04 housing activity.

Also attached (as the last page to this staff report) and required to be provided to the Board is a Property Report which lists all properties owned by the agency at 6/30/2004.

FISCAL IMPACT: N/A

CITY OF MORGAN HILL REDEVELOPMENT AGENCY
RDA PROPERTY REPORT
AS OF JUNE 30, 2004

<u>Description</u>	<u>Address</u>	<u>APN</u>
Train Depot	Depot St.	726-14-061
Skeels Building	Monterey & Third St.	767-07-050
Watsonville Road Land	Watsonville Rd	767-23-017
CalTrain Parking Lot	Butterfield Avenue	726-15-069
Former Police Department	17605 Monterey Rd	764-16-029
Willows Apartments Site	Edmundson St.	767-21-059
Fourth St Property East	55 E Fourth St.	726-13-033
Gunderson Property	Edmundson St.	767-18-025
Future Sports Complex	Condit Road	817-13-001
Butterfield Blvd. Street Improvements	Butterfield Blvd.	Various
West Third Street lot	West Third Street	767-07-065
Land for Library	Dewitt Avenue	portion of 773-02-003
Courthouse Property	301 Diana	726-12-006
Tennant Avenue Improvements	Tennant Avenue	Various



CITY COUNCIL STAFF REPORT

MEETING DATE: JANUARY 19, 2005

APPROPRIATE FUNDS FOR THE SAFE ROUTES TO SCHOOL GRANT PROJECT (CENTRAL/MONTEREY PEDESTRIAN IMPROVEMENTS)

RECOMMENDED ACTION(S):

Appropriate \$47,000 in funds from our un-appropriated Traffic Impact Fee Fund balance to cover the City's 20% funding contribution for this project.

Agenda Item #17

Prepared By:

Associate Engineer

Approved By:

Public Works Director

Submitted By:

City Manager

EXECUTIVE SUMMARY: The Safe Routes to School (SR2S) program was developed to provide for safe and convenient walking and biking facilities to and from local schools. Staff has been submitting yearly applications for the SR2S Grant for some time now. The last two applications were for shoulder improvements along Main Avenue to provide safer access to Live Oak High School. These applications were not successful. Staff, in a cooperative effort with the School District, decided this year to focus on improving pedestrian access to Britton Middle School.

The Department of Transportation, Caltrans, announced a call for projects for their SR2S fifth cycle in February 2004. The City responded by submitting an application to improve the crosswalk on Monterey at Central to Britton Middle School. The proposed scope of work will consist of constructing sidewalk bulb-outs on Monterey, installing a median on Monterey south of Central, re-striping existing crosswalks, including additional traffic warning signs, installing handicap ramps, and installing two radar speed displays. These improvements will reduce the potential for accidents at this location by making pedestrians more visible, providing a safer waiting location, reducing the distance required to cross, and upgrading driver warning devices to slow traffic.

The application was prepared by Higgins Associates with guidance provided by City staff. In November, the City received a letter from Caltrans stating that the City's project has been approved for funding through the Safe Routes to School Grant Program. Three hundred and eighty-five (385) applications were submitted, but only ninety-seven (97) were approved. The estimated cost of the project is \$230,000, with \$183,000 being funded by the SR2S Grant. The City will be responsible for the remaining portion of \$47,000 or 20%, which is above the minimum match requirement of 10%. By funding the additional amount to cover preliminary design engineering, the City will be able to expedite the project. It is our goal to construct the project this summer before school starts in August 2005.

FISCAL IMPACT: Staff recommends that the City's portion of \$47,000 be appropriated from the current year un-appropriated Traffic Impact Fee Fund (309) balance.



CITY COUNCIL STAFF REPORT

MEETING DATE: January 19, 2005

RESOLUTION AUTHORIZING THE SANTA CLARA COUNTY DEPARTMENT OF AGRICULTURE AND RESOURCE MANAGEMENT TO ABATE WEEDS

RECOMMENDED ACTIONS:

1. **Open/Close** Public Hearing.
2. **Adopt Resolution** authorizing the Santa Clara County Department of Agriculture and Resource Management to Abate Weeds.

EXECUTIVE SUMMARY: In anticipation of the 2005 Hazardous Vegetation Management Program, Hazardous Vegetation Management Program Notices have been mailed to property owners in Morgan Hill whose properties have been identified as having, or potentially having, a problem with hazardous vegetation. In addition, notice of this public hearing has been published in the newspaper per Government Code Section 39556.

The purpose of this hearing is to allow property owners to object to having their property in the 2005 Hazardous Vegetation Management Program (copy attached). The list of properties in the Program has been posted at City Hall for ten days prior to this public hearing as required.

The City controls the growth of hazardous vegetation under the authority set out in Chapter 8.20 of the Morgan Hill Municipal Code and in Government Code Sections 39560 and following. The City has a contract with the Santa Clara County Department of Agriculture and Resource Management which provides for County abatement of the property if the property owner does not maintain the property as required. If the work is completed by the Department of Agriculture and Resource Management contractor, costs for the work are added to the owner's property tax assessment. Properties on the Hazardous Vegetation Program have been inspected by Department of Agriculture and Resource Management staff and have been found to have unsafe vegetation during the growing season. Once a property is added to the Program, it remains on the program for three years.

FISCAL IMPACT: The Hazardous Vegetation Management Program is user fee supported. The per-lot assessment includes the actual costs for controlling vegetation plus the overhead cost to provide the service.

Agenda Item # 18

Prepared By:

Asst. to the City
Manager

Submitted By:

City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL INSTRUCTING THE SANTA CLARA COUNTY DEPARTMENT OF AGRICULTURE AND RESOURCE MANAGEMENT TO ABATE NUISANCES ARISING OUT OF HAZARDOUS VEGETATION GROWING UPON LOTS OR IN FRONT OF PROPERTY IN THE CITY OF MORGAN HILL AS REQUIRED BY ORDINANCE NO. 222, N.S.

WHEREAS, pursuant to Ordinance No. 222, N.S., the City Council hereto adopted Resolution No. 5875 declaring hazardous vegetation growing in the City of Morgan Hill to constitute a public nuisance; and

WHEREAS, a Public Hearing was held pursuant to Resolution No. 5875 and said Ordinance No. 222, N.S. in that time and manner required by law.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. That the Santa Clara County Department of Agriculture and Resource Management be, and is hereby ordered, to abate the nuisance or cause the same to be abated by having the vegetation destroyed by cutting, discing or any other method as may be determined by the Department.
2. That any property owner shall have the right to destroy or remove at his expense prior to removal of said vegetation by the Department of Agriculture and Resource Management.
3. That the Department of Agriculture and Resource Management shall keep an account of the cost of removing said vegetation and document such account in a report and assessment list, and file the same with the City Clerk. Such report shall refer to each separate lot or parcel of land, together with the expense of removal of hazardous vegetation therefrom.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 19th Day of January, 2005 by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

☞ CERTIFICATION ☞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on January 19, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

**2005 HAZARDOUS VEGETATION MANAGEMENT PROGRAM
COMMENCEMENT REPORT
CITY OF MORGAN HILL**

SITUS	APN	OWNER	ADDRESS	CITY/STATE	ZIP
	DIANA	AV 726-02-007	TSAI YOUNG H AND SO M ET AL	5405 ALTON PY STE-5A#209	IRVINE CA 92619
		726-02-012	WU TZWU-CHWAN AND MEI-TSU K	1599 POPPY WY	CUPERTINO CA 95014
		726-02-016	JUNG HUNG WEN	18225 GREGORY PL	MONTE SERENO CA 95030
	DIANA	AV 726-04-006	MILLER ROBERT J TRUSTEE	6445 VIA VENADO	SAN LUIS OBISPO CA 93401-8018
761	DAKOTA	DR 726-09-024	DUNNE MICHAEL F AND JONNA M	2068 LINCOLN AV	SAN JOSE CA 95125-3539
	E 4TH	ST 726-13-034	LEE KE LING	10125 SCENIC BL	CUPERTINO CA 95014-2724
55	E 4TH	ST 726-13-042	GLENROCK BUILDERS INC	PO BOX 910	MORGAN HILL CA 95038-0910
17520	MONTEREY	RD 726-14-049	RICHTER GAYLE H TRUSTEE & ET	P. O. BOX 784	MORGAN HILL CA 95038
		726-22-051	Prosperity Investments	14900 Vinter Court	Saratoga CA 95070
	E MAIN	AV 726-23-016	UNION PACIFIC RAILROAD	10031 FOOTHILLS BLVD	ROSEVILLE CA 95747
	E CENTRAL	AV 726-24-001	UNION PACIFIC RAILROAD	10031 FOOTHILLS BLVD	ROSEVILLE CA 95747
		726-24-006	South County Community Builders	9015 Murray Ave, ste. 100	Gilroy CA 95020
17610	MONTEREY	RD 726-24-007	JONES JERRY W	18 Porto Cielo Court	Rancho Mirage CA 92270-3220
17745	MC LAUGHLIN	AV 726-24-010	HERNANDEZ FAUSTINO R AND	17745 MC LAUGHLIN AV	MORGAN HILL CA 95037-3610
	MONTEREY	RD 726-24-019	ZAMORA FRANK I AND DIANA	17810 MONTEREY RD	MORGAN HILL CA 95037-3651
17860	MONTEREY	726-24-020	Morgan Hill Historical Society Inc.	P.O. Box 1258	Morgan Hill Ca 95038-1258
		726-24-023	JONES MARIE A	18 Porto Cielo Court	Rancho Mirage CA 92270-3220
95	E CENTRAL	AV 726-24-024	JONES JERRY W AND MARIE A	18 PortoCielo Court	Rancho Mirage CA 92270-3220
		726-25-007	UNION PACIFIC RAILROAD	10031 FOOTHILLS BLVD	ROSEVILLE CA 95747
		726-25-008	UNION PACIFIC RAILROAD	10031 FOOTHILLS BLVD	ROSEVILLE CA 95747
		726-25-009	UNION PACIFIC RAILROAD	10031 FOOTHILLS BLVD	ROSEVILLE CA 95747
		726-25-010	UNION PACIFIC RAILROAD	10031 FOOTHILLS BLVD	ROSEVILLE CA 95747
		726-25-066	MORGAN HILL DEVELOPMENT	600 MILLER AV	MILL VALLEY CA 94941
		726-25-067	MORGAN HILL DEVELOPMENT	600 MILLER AV	MILL VALLEY CA 94941

**2005 HAZARDOUS VEGETATION MANAGEMENT PROGRAM
COMMENCEMENT REPORT
CITY OF MORGAN HILL**

SITUS	APN	OWNER	ADDRESS	CITY/STATE	ZIP
	726-25-068	MORGAN HILL DEVELOPMENT	600 MILLER AV	MILL VALLEY	CA 94941
	726-25-069	MORGAN HILL DEVELOPMENT	600 MILLER AV	MILL VALLEY	CA 94941
	726-25-070	MORGAN HILL DEVELOPMENT	600 MILLER AV	MILL VALLEY	CA 94941
	726-25-071	MORGAN HILL DEVELOPMENT	600 MILLER AV	MILL VALLEY	CA 94941
	726-25-072	MORGAN HILL DEVELOPMENT	600 MILLER AV	MILL VALLEY	CA 94941
	726-25-073	MORGAN HILL DEVELOPMENT	600 MILLER AV	MILL VALLEY	CA 94941
	726-25-076	Madrone Investments Llc	16060 Caputo Drive #160	Morgan Hill	CA 95037
	726-25-077	MORGAN HILL DEVELOPMENT	600 MILLER AV	MILL VALLEY	CA 94941
	726-25-078	MORGAN HILL DEVELOPMENT	600 MILLER AV	MILL VALLEY	CA 94941
	726-25-079	MORGAN HILL DEVELOPMENT	600 MILLER AV	MILL VALLEY	CA 94941
	726-26-004	HU CHIN H AND MEI C TRUSTEE	7169 GLENVIEW DR	SAN JOSE	CA 95120-0000
JARVIS	DR 726-30-013	ABBOTT LABORATORIES	275 N FIELD DR	LAKE FOREST	IL 60045
	726-31-025	DELUCCHI ASSOCIATES	3798 WOODSIDE RD UNIT Q	WOODSIDE	CA 94062
	726-31-038	KALMAN ALAN D AND FREIA G	6337 PANCHO CT	SAN JOSE	CA 95123-4865
JARVIS	DR 726-32-021	ALTERA CORPORATION	101 INOVATION DR	SAN JOSE	CA 95134
675	JARVIS	DR 726-32-025	MORGAN HILL DEVELOPMENT	MILL VALLEY	CA 94941
895	COCHRANE	RD 726-33-024	IN-N-OUT BURGERS	BALDWIN PARK	CA 91706
18650	ADAMS	CT 726-34-001	BEITPOLOUS YOUAV AND MARIAM	SAN JOSE	CA 95120
	COCHRANE	RD 726-34-006	BABSON MARY T TRUSTEE	PALO ALTO	CA 94303-4443
440	COCHRANE	CL 726-34-016	THOITS BROS INC	PALO ALTO	CA 94301
480	COCHRANE	CL 726-34-017	THOITS BROS INC	PALO ALTO	CA 94301
19095	ROSE	AV 726-36-005	MOSQUEDA EVANGELINE ET AL	SOUTH SAN	CA 94080-4542
	ROSE	AV 726-36-007	MAGINCALDA LEROY J ET AL	LOS BANOS	CA 93635-0161
	PEEBLES	AV 726-36-014	murray, scott	Morgan Hill	CA 95037

**2005 HAZARDOUS VEGETATION MANAGEMENT PROGRAM
COMMENCEMENT REPORT
CITY OF MORGAN HILL**

SITUS	APN	OWNER	ADDRESS	CITY/STATE	ZIP
1165 TAYLOR	AV 726-36-020	KALEND WALTER E	2933 ARGUELLO DR	BURLINGAME CA	94010-5801
19240 MONTEREY	RD 726-41-018	PANWALA SAN K ET AL	19240 MONTEREY RD	MORGAN HILL CA	95037-2704
19220 TAYLOR	AV 726-41-046	O'BRIEN DENNIS AND GLORIA A	2001 WINWARD WY STE 200	SAN MATEO CA	94404
19230 TAYLOR	AV 726-41-047	O'BRIEN DENNIS AND GLORIA A	2001 WINWARD WY STE 200	SAN MATEO CA	94404
19260 TAYLOR	AV 726-41-057	DePrice Properties LLC.	P.O. Box 1767	Morgan Hill CA	95038
19250 TAYLOR	AV 726-41-058	Ronald Guthrie / Eugene Woerner	19071 Clayton Drive	Morgan Hill CA	95037
19240 TAYLOR	AV 726-41-059	C&M PROPERTIES, LLC	P.O.BOX 1767	MORGAN HILL CA	95038
19210 TAYLOR	AV 726-41-060	O'BRIEN DENNIS AND GLORIA A	2001 WINWARD WY STE 200	SAN MATEO CA	94404
19255 CLAYTON	AV 726-41-061	O'BRIEN DENNIS AND GLORIA A	2001 WINWARD WY STE 200	SAN MATEO CA	94404
19235 CLAYTON	AV 726-41-062	O'BRIEN DENNIS AND GLORIA A	2001 WINWARD WY STE 200	SAN MATEO CA	94404
19215 CLAYTON	AV 726-41-063	O'BRIEN DENNIS AND GLORIA A	2001 WINWARD WY STE 200	SAN MATEO CA	94404
17025 LAUREL	RD 726-43-004	SIMONSEN DEVELOPMENT INC	1180 G DAY RD	GILROY CA	95020-9308
DUNNE	AV 726-43-006	KAWASHIMA SEIGE AND ALYCE F	1440 CHURCH AV	GILROY CA	95020-9116
2275 E DUNNE	AV 728-02-003	TRUONG MAI TOAN AND TRAN	13622 SARAVIEW DR	SARATOGA CA	95070-4848
HILL	RD 728-10-005	Pan Cal Corporation	4125 Blackford Avenue, Suite	San Jose CA	95112
	728-11-026	GREWAL PRITAM S AND MANJEET K	1150 E WILLIAM ST	SAN JOSE CA	95116
17237 SANDALWOOD WY	728-11-027	NELSEN KAREN	1575 STERLING OAKS CT	MORGAN HILL CA	95037-9671
	728-17-018	APRICOT LAND INCORPORATED	1216 VIA HUERTA	LOS ALTOS CA	94024-7112
17045 CONDIT	RD 728-17-019	HORIZON LAND INCORPORATED	1216 VIA HUERTA	LOS ALTOS CA	94024-7112
17025 CONDIT	RD 728-17-021	GOLDEN ARCH LP, A DELAWARE LP	6830 VIA DEL ORO UNIT 101	SAN JOSE CA	95119
1140 COCHRANE	RD 728-31-005	ALBERTI DAVID M AND MAXINE R	1140 COCHRANE RD	MORGAN HILL CA	95037-9354
	RD 728-31-006	HIGASHI EIICHI ET AL	2671 SENTER RD	SAN JOSE CA	95111-1124
1040 COCHRANE	RD 728-31-009	HORTON JACK E TRUSTEE & ET AL	26030 ALTAMONT RD	LOS ALTOS HILLS CA	94022-4317
	RD 728-31-011	CHEW HELEN AND LAWRENCE	72 ENCINO RD	ATHERTON CA	94027-2212

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18590	ST LOUISE DR 728-31-013	SAINT LOUISE REGIONAL HOSP	26000 ALTAMONT RD	LOS ALTOS HILLS CA	94022
	COCHRANE RD 728-34-004	RYAN NANCY R TRUSTEE & ET AL	RT. 2, BOX 2681	ALTON MO	65606-9636
2475	MAGNOLIA WY 728-41-018	LA ROCHELLE ROBERT H AND	2475 MAGNOLIA WY	MORGAN HILL CA	95037-0000
	728-42-017	COYOTE RANCH LP	275 SARATOGA AV UNIT 105	SANTA CLARA CA	95050-6664
19025	MALAGUERRA 728-45-008	Philip A Alberti	215 Mott Ave	Santa Cruz CA	95062
1805	SILVERWINGS CT 728-45-021	OGRADY DARYL AND JEANNE	1805 SILVERWINGS CT	MORGAN HILL CA	95037-9002
	728-45-024	IVIE DONALD AND SHARON	2040 DIANA AV	MORGAN HILL CA	95037-9641
19025	MALAGUERRA AV 728-45-043	ALBERTI PHILIP A TRUSTEE	215 MOTT AV	SANTA CRUZ CA	95062
17055	OAK LEAF DR 729-05-017	SACHARA EUGENE F AND BETTY J	1160 THIRD ST	GILROY CA	95020-5304
16535	RUSTLING CT 729-08-008	CLEETON STEPHEN V AND	308 DRAKE CT	BENICIA CA	94510-1521
16665	OAK VIEW CL 729-10-031	DUNN DONALD A AND CAROL J	16665 OAK VIEW CL	MORGAN HILL CA	95037-0000
16595	OAK VIEW CL 729-11-003	MENDIZABAL ALBERT AND BETTE C	13578 MARMONT WY	SAN JOSE CA	95127-3734
16460	CIRCLE LN 729-11-010	MAXWELL WARREN W AND SUSAN	16460 CIRCLE LN	MORGAN HILL CA	95037-6911
3320	OAKWOOD CT 729-15-019	WAGSTER JAMES A AND CYNTHIA D	15730 FOOTHILL AV	MORGAN HILL CA	95037-9512
	OAK CANYON DR 729-17-008	GILSDORF DAREECE ET AL	16345 OAK CANYON DR	MORGAN HILL CA	95037-6813
16335	JACKSON DR 729-18-015	MARIN THERESA J TRUSTEE	1005 SUMMERVIEW DR	SAN JOSE CA	95132-2951
16325	JACKSON DR 729-18-016	ADORNO FRANK III AND STEPHANIE	4898 WELLINGTON DR	SAN JOSE CA	95136
16450	JACKSON DR 729-18-030	HIGHTON KEITH R AND EILEEN	16450 JACKSON OAKS DR	MORGAN HILL CA	95037-6902
3490	OAK HILL CT 729-20-003	JACKSON OAKS ASSN	PO BOX 518	MORGAN HILL CA	95038-0518
15970	JACKSON DR 729-21-012	CHHIAP VISOTH AND LEWIS	15970 JACKSON OAKS DR	MORGAN HILL CA	95037-6824
3735	LIVE OAK CT 729-22-022	LEE KYUNG SOOK	902 BREA LN	SAN JOSE CA	95138-0000
3765	RIDGEVIEW CT 729-24-023	GRAVES MARA I AND ERNEST P	3765 RIDGEVIEW CT	MORGAN HILL CA	95037-6820
15940	JACKSON DR 729-24-037	WORKMAN DENNIS L AND PATRICIA	15940 JACKSON OAKS DR	MORGAN HILL CA	95037-6824
15950	JACKSON DR 729-24-038	BUSLIK WALTER S TRUSTEE	1713 GRIZILO DR	SAN JOSE CA	95124-1923

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17065	COPPER HILL DR 729-30-005	PARSONS ERIC K AND CATHRYN J	17065 COPPER HILL DR	MORGAN HILL CA	95037-6502
17071	COPPER HILL DR 729-30-006	ZANE CORINNE J AND PAUL M	17071 COPPER HILL DR	MORGAN HILL CA	95037-6502
17201	QUAIL CT 729-33-028	JACOBSEN BONNIE J AND IAN C	17201 QUAIL CT	MORGAN HILL CA	95037-6419
17205	QUAIL CT 729-33-029	GUERRERO JUAN C AND SHELLY D	17205 QUAIL CT	MORGAN HILL CA	95037-6419
17215	QUAIL CT 729-33-031	WARDEN SAMUEL W AND KELLY C	17215 QUAIL CT	MORGAN HILL CA	95037-6419
17290	LAKE VIEW DR 729-34-010	STAHARA JACQUELINE M AND	10432 NOEL AV	CUPERTINO CA	95014-1249
17230	LAKE VIEW DR 729-34-015	BARBER RICAHRD G AND MARY V	17230 LAKE VIEW DR	MORGAN HILL CA	95037-6425
3410	BLUE GRASS CT 729-34-028	DROBILISCH SANDOR AND LINDSAY	3410 BLUE GRASS CT	MORGAN HILL CA	95037-6417
17360	LAKE VIEW DR 729-35-025	paul and mary ealey	17360 lake view dr	Morgan Hill CA	95037
3425	LAVA ROCK CT 729-35-027	CHIPMAN DAVID H AND JANE C	3425 LAVA ROCK CT	MORGAN HILL CA	95037-6411
3420	LAVA ROCK CT 729-35-030	SZCZEPANIAK JON C AND CAROL A	3420 LAVA ROCK CT	MORGAN HILL CA	95037-6427
17401	LAKE VIEW DR 729-35-033	JOHNSON WILLIAM G AND EVELYN F	17401 LAKE VIEW DR	MORGAN HILL CA	95037-6410
17451	HOLIDAY DR 729-38-028	SMITH WARREN J AND DIANA L	17451 HOLIDAY DR	MORGAN HILL CA	95037-6512
17484	LAKE VIEW DR 729-41-015	HOANG TON T AND NGO DENISE M	17484 LAKE VIEW DR	MORGAN HILL CA	95037-6409
17480	LAKE VIEW DR 729-41-016	KNOFLER PAUL J AND JEWEL A	17480 LAKE VIEW DR	MORGAN HILL CA	95037-6409
17470	LAKE VIEW DR 729-41-018	PRESSER LINDA G	17470 LAKE VIEW DR	MORGAN HILL CA	95037-6409
17450	LAKE VIEW DR 729-41-020	LEWIS DANIEL R TRUSTEE	17450 LAKE VIEW DR	MORGAN HILL CA	95037-6409
17441	LAKE VIEW DR 729-41-027	GALETTO JAMES W AND MARY E	17441 LAKE VIEW DR	MORGAN HILL CA	95037-6410
17461	LAKE VIEW DR 729-41-029	BOULGER QUIN AND LISA	17461 LAKE VIEW DR	MORGAN HILL CA	95037-6410
17481	LAKE VIEW DR 729-41-032	CHU APRIL H TRUSTEE	17481 LAKE VIEW DR	MORGAN HILL CA	95037-6410
18040	WOODLAND AV 764-02-001	YNEGAS RAY AND BETTY J	18040 WOODLAND AV	MORGAN HILL CA	95037-9143
2155	ROLLING DR 764-02-007	WALKER DONALD W AND SHERIDAN	2155 ROLLING HILLS DR	MORGAN HILL CA	95037-9437
2185	ROLLING DR 764-02-008	STRICKLAND WILLIAM J AND JANICE	2185 ROLLING HILLS DR	MORGAN HILL CA	95037-9438
2215	ROLLING DR 764-02-009	CARTER DANIEL R AND NORVILLE L	2215 ROLLING HILLS DR	MORGAN HILL CA	95037-9438

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2110	ROCKY RIDGE RD 764-03-010	LEISCH STEVEN O AND MONICA E	2110 ROCKY RIDGE RD	MORGAN HILL	CA 95037-9441
	BLACK OAK CT 764-03-017	TULLY LOUIS J AND SUSAN S	7151 VIA ROMERA	SAN JOSE	CA 95139-1158
2105	ROCKY RIDGE RD 764-03-024	MAYELIAN HARRY AND MABEL	27519 ALTA KNOLL DR	SANTA CLARITA	CA 91350-1900
2140	ROLLING DR 764-03-027	SMITH BEN H AND VAL J	23651 CAMINO HERMOSO	LOS ALTOS	CA 94024-6409
18025	WOODLAND AV 764-03-030	HUYNH MINH AND BICHCAU	14934 JEANETTE LN	SAN JOSE	CA 95127-2533
	MONTEREY RD 764-09-013	UNION PACIFIC RAILROAD	10031 FOOTHILLS BLVD	ROSEVILLE	CA 95747
	764-09-032	GLENROCK BUILDERS INC	P.O. BOX 910	MORGAN HILL	CA 95038
	764-10-003	UNION PACIFIC RAILROAD	10031 FOOTHILLS BLVD	ROSEVILLE	CA 95747
18105	MONTEREY RD 764-11-003	VIOLA SAVERIO L TRUSTEE & ET AL	17760 MONTEREY RD STE C	MORGAN HILL	CA 95037
17975	MONTEREY RD 764-12-004	NORTHWIND PROPERTIES LTD	1654 THE ALAMEDA UNIT	SAN JOSE	CA 95126
95	WRIGHT AV 764-12-018	SOUTH COUNTY HOUSING	9015 MURRAY AV STE 100	GILROY	CA 95020
	DEL MONTE AV 764-12-019	SOUTH COUNTY HOUSING	9015 MURRAY AV STE 100	GILROY	CA 95020
18025	MONTEREY RD 764-12-025	GIOVANNI DEVELOPMENT CO LLC	5694 MISSION CNTR RD	SAN DIEGO	CA 92108
175	LINDO LN 764-14-051	BETTENCOURT MANUEL AND ANA M	2600 BRIDLE PATH DR	GILROY	CA 95020
18550	HALE AV 764-23-011	PETTIT RICHARD G AND ROSA M	P O BOX 23876	SAN JOSE	CA 95153
18570	HALE AV 764-23-013	LEMONS GILBERT AND HELEN	18570 HALE AV	MORGAN HILL	CA 95037-3008
295	BERKSHIRE DR 764-23-057	SINGH T K AND PARMINDER	305 HAZELTON CT	MORGAN HILL	CA 95037-3522
325	BERKSHIRE DR 764-23-058	SINGH T K AND PARMINDER	305 HAZELTON CT	MORGAN HILL	CA 95037-3522
320	BERKSHIRE DR 764-23-059	SINGH T K AND PARMINDER	305 HAZELTON CT	MORGAN HILL	CA 95037-3522
310	BERKSHIRE DR 764-23-060	SINGH T K AND PARMINDER	305 HAZELTON CT	MORGAN HILL	CA 95037-3522
120	CAMPOLI DR 764-24-010	E & H THIRD FAM LP	21009 SEVEN SPRINGS PY	CUPERTINO	CA 95014-0000
115	SANCHEZ DR 764-24-024	CORONA MANUEL R AND	695 W DUNNE AV	MORGAN HILL	CA 95037-4856
	HALE AV 764-25-006	ADAMS PHILLIP AND VICTORIA M	2542 TARTAN DR	SANTA CLARA	CA 95051-1219
	(LAND ONLY) 764-28-007	DAVIDSON CHARLES W AND ANITA	255 W JULIAN ST STE 200	SAN JOSE	CA 95110-2406

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835	LLAGAS	RD 764-29-032	BAKER MATTHEW J TRUSTEE	2331 MONTPELIER DR STE A	SAN JOSE CA 95116
18390	CASTLE	DR 764-30-035	WATSON DONALD A AND TERI S	18390 CASTLE RIDGE DR	MORGAN HILL CA 95037-9458
18430	CASTLE	DR 764-30-036	ALJANDALI EHAB S	18430 CASTLE RIDGE DR	MORGAN HILL CA 95037-9449
	HALE	AV 764-32-017	HUNT JONATHAN O ET AL	PO BOX 8101	PORTOLA VALLEY CA 94028
610 B	LLAGAS	RD 764-32-023	ENTEZARMAHDI SEYED ALI	610 B LLAGAS RD	MORGAN HILL CA 95037-3400
18200	CHRISTEPH	DR 764-32-025	TANSY MICHAEL K	1121 TRABING RD	WATSONVILLE CA 95076
17995	RIL MARIANNA	CT 764-32-052	KYLES RUTH M ET AL	PO BOX 864	MORGAN HILL CA 95038-0864
435	WRIGHT	AV 764-35-019	DELISLE DENNIS P AND SHARON F	435 WRIGHT AV	MORGAN HILL CA 95037-4131
	TRUMPP	CT 764-35-055	TRUMPP WALTER C ET AL	1540 INDUSTRIAL AV	SAN JOSE CA 95112-2714
17781	TRUMPP	CT 764-35-057	TRUMPP ARMAND H AND DIANE L	17781 TRUMPP CT	MORGAN HILL CA 95037-4030
	TRUMPP	CT 764-35-058	TRUMPP ARMAND H AND DIANE L	17781 TRUMPP CT	MORGAN HILL CA 95037-4030
	TRUMPP	CT 764-35-059	TRUMPP WALTER C	1540 INDUSTRIAL AV	SAN JOSE CA 95112-2714
	TRUMPP	CT 764-35-060	TRUMPP WALTER C	1540 INDUSTRIAL AV	SAN JOSE CA 95112-2714
585	BONNIE VIEW	CT 764-42-010	willilam r. jenkins & elizabeth d.	po box 2214	Los Gatos CA 95031
18605	CASTLE HILL	DR 764-43-001	MAILLOUX CHANTAL TRUSTEE & ET	18605 CASTLE HILL DR	MORGAN HILL CA 95037-9171
18665	CASTLE HILL	DR 764-43-002	IZQUIERDO PASCUAL	18665 CASTLE HILL DR	MORGAN HILL CA 95037-9171
18450	CASTLE HILL	DR 764-45-006	LIRA RAYMOND AND CUCA P	18450 CASTLE HILL DR	MORGAN HILL CA 95037-9449
18510	CASTLE HILL	DR 764-45-010	LEE CARL AND LINNIE	18510 CASTLE HILL DR	MORGAN HILL CA 95037-9452
18610	CASTLE HILL	DR 764-45-020	WUEST WALTER A AND HELGA	18610 CASTLE HILL DR	MORGAN HILL CA 95037-9170
18550	CASTLE HILL	DR 764-45-022	WESTBROOK H HOWARD AND	18550 CASTLE HILL DR	MORGAN HILL CA 95037-9169
18530	CASTLE HILL	DR 764-45-023	CHADBAND J C TRUSTEE & ET AL	18530 CASTLE HILL DR	MORGAN HILL CA 95037-9169
18330	CRYSTAL	DR 764-45-029	POIRIER MARC E AND ANN E	18330 CRYSTAL DR	MORGAN HILL CA 95037-9450
321	OAK GROVE	CT 764-48-025	MICHAEL LONNIE I AND CECELIA N	321 OAK GROVE CT	MORGAN HILL CA 95037-4222
311	OAK GROVE	CT 764-48-026	WANG GEORGE S C AND ANN C	311 OAK GROVE CT	MORGAN HILL CA 95037-4222

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301	OAK GROVE CT 764-48-027	BLONDIN MICHAEL S AND	301 OAK GROVE CT	MORGAN HILL CA	95037-4222
291	OAK GROVE CT 764-48-028	DOAN DAO M AND TRAN TIFFY K	291 OAK GROVE CT	MORGAN HILL CA	95037-4221
19251	DOUGHERTY AV 764-55-006	PARK JAMES Y AND ESTHER H	19251 DOUGHERTY AV	MORGAN HILL CA	95037-0000
19271	DOUGHERTY AV 764-55-007	HERNANDEZ ROBERTO AND NORA	19271 DOUGHERTY AV	MORGAN HILL CA	95037-0000
200	BASIL AV 764-55-008	CISNEROS MORGAN AND NANCY	200 BASIL AV	MORGAN HILL CA	95037-0000
18005	STONEY WY 764-56-001	patricia and jesse dela pena	18005 stoney creek way	Morgan Hill CA	95037
18015	STONEY WY 764-56-002	MARY SUSAN MAPS & KENNETH H.	18015 STONEY CREEK WAY	MORGAN HILL CA	95037
18025	STONEY WY 764-56-003	LLAGAS HALE INVRS LLC	18025 STONEY CREEK WY	MORGAN HILL CA	95037-0000
18035	STONEY WY 764-56-004	HOUDA GRAOI AND MUSTAPHA	18035 STONEY CREEK WAY	MORGAN HILL CA	95037
17960	RIL MARIANNA CT 764-56-005	LLAGAS HALE INVRS LLC	17960 RIL MARIANNA CT	MORGAN HILL CA	95037-0000
17950	RIL MARIANNA CT 764-56-006	LLAGAS HALE INVRS LLC	17950 RIL MARIANNA CT	MORGAN HILL CA	95037-0000
	764-56-014	LLAGAS HALE INVRS LLC	275 SARATOGA AV	SANTA CLARA CA	95050
	764-56-015	LLAGAS HALE INVRS LLC	275 SARATOGA AV	SANTA CLARA CA	95050
	DE WITT AV 767-01-049	PASQUINELLI LOUIS TRUSTEE	PO BOX 910	MORGAN HILL CA	95038-0910
	767-04-009	PG&E LAND SERVICES OFFICE Attn:	111 ALMADEN BLVD RM 814	SAN JOSE CA	95115-005
	767-05-001	PG&E LAND SERVICES OFFICE Attn:	111 ALMADEN BLVD RM 814	SAN JOSE CA	95115-005
	WARREN AV 767-06-001	HOSSEINPOUR AKBAR AND MEHRY	4309 ROSCOMMON WY	DUBLIN CA	94568
195	NOB HILL TR 767-06-016	WALTON GARY AND JEAN	PO BOX 1265	MORGAN HILL CA	95038
	NOB HILL TR 767-06-024	STEVE AND NANCY MCVAY	960 STONEHURST CIRCLE	CAMPBELL CA	95008
	NOB HILL TR 767-06-025	STEVE AND NANCY MCVAY	960 STONEHURST CIRCLE	CAMPBELL CA	95008
	NOB HILL TR 767-06-026	STEVE AND NANCY MCVAY	960 STONEHURST CIRCLE	CAMPBELL CA	95008
	NOB HILL TR 767-06-027	STEVE AND NANCY MCVAY	960 STONEHURST CIRCLE	CAMPBELL CA	95008
	NOB HILL TR 767-06-028	STEVE AND NANCY MCVAY	960 STONEHURST CIRCLE	CAMPBELL CA	95008
	NOB HILL TR 767-06-029	STEVE AND NANCY MCVAY	960 STONEHURST CIRCLE	CAMPBELL CA	95008

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	NOB HILL	TR 767-06-030	STEVE AND NANCY MCVAY	960 STONEHURST CIRCLE	CAMPBELL CA 95008
	NOB HILL	TR 767-06-031	WARD MICHAEL AND MICHELLE	130 NOB HILL TR	MORGAN HILL CA 95037-0000
17335	DEL MONTE	AV 767-06-033	STEHLIK MICHAEL J ET AL	17335 DEL MONTE AV	MORGAN HILL CA 95037-0000
17205	MONTEREY	RD 767-08-006	DAVIS VIOLET E TRUSTEE	17205 MONTEREY RD	MORGAN HILL CA 95037-3639
17105	MONTEREY	RD 767-08-017	RICHTER GAYLE H TRUSTEE & ET	P. O. BOX 784	MORGAN HILL CA 95038
85 W 5TH	ST 767-08-047	THOMPSON LLOYD AND DOROTHY	85 W 5TH ST	MORGAN HILL	CA 95037-4509
	767-09-029	VILLA CIOLINO ASSOCS, LTD	9015 MURRAY AV STE 100	GILROY	CA 95020
16835	MONTEREY	RD 767-10-002	SHROPSHIRE MARIA T	16835 MONTEREY RD	MORGAN HILL CA 95037-5118
16825	MONTEREY	RD 767-10-003	DAVIS PAUL H	155 SANTA CLARA AV	GILROY CA 95020-9285
16625	DEL MONTE	AV 767-16-013	FARIS JOSEPH E	16615 DEL MONTE AV	MORGAN HILL CA 95037-5002
16615	DEL MONTE	AV 767-16-014	FARIS JOSEPH E	16615 DEL MONTE AV	MORGAN HILL CA 95037-5002
16595	MONTEREY	RD 767-17-046	MORGAN HILL MED CTR LLC	2641 CARDINAL LN	SAN JOSE CA 95125-4810
	COSMO	AV 767-17-047	PEPPER LANE-COSMO LLC	15729 LOS GATOS BL #200	LOS GATOS CA 95032-2539
	MONTEREY	RD 767-18-046	ALCINI PARTNERSHIP	1518 PADRES DR	SAN JOSE CA 95125
15335	MONTEREY	RD 767-23-016	WU TZWU-CHWAN AND MEI-TSU K	1599 POPPY WY	CUPERTINO CA 95014-5306
15195	LA ROCCA	CT 767-36-014	MILLER DONALD W	P O BOX 1111	LAKE LURE NC 28746
16180	SUNSET	AV 767-49-012	LUNA DELPHINA	16180 SUNSET AV	MORGAN HILL CA 95037-5308
905 W MAIN	AV 773-06-009	ACTON VIRGINIA TRUSTEE	P.O. BOX 575	MORGAN HILL	CA 95038
16855	DE WITT	AV 773-08-013	WONG HARRY TRUSTEE	904 RAMONA ST	PALO ALTO CA 94301-2736
1205 W DUNNE	AV 773-09-020	RICH ROBERT A AND GYSELLA M	1205 W DUNNE AV	MORGAN HILL	CA 95037-4719
17991	DEER RUN	CT 773-18-016	PFEIFER ROLAND D AND JOAN M	17991 DEER RUN CT	MORGAN HILL CA 95037-9446
	(LAND ONLY)	779-04-066	NMHCS c/o Oakwood Country School	105 John Wilson Way	Morgan Hill CA 95037
14500	SHADOWLANE CT	779-35-024	MOONEY DAVID AND MARLENE	14500 SHADOWLANE CT	MORGAN HILL CA 95037-6221
1180	EASY	ST 779-40-001	YANG YINING AND SUN DONGMEI	1180 EASY ST	MORGAN HILL CA 95037-6219

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1170	EASY	ST 779-40-002	PALMER DAVID A AND ANNMARIE	1170 EASY ST	MORGAN HILL	CA 95037-6219
1160	EASY	ST 779-40-003	LITTLE THOMAS M AND DEBORAH	1160 EASY ST	MORGAN HILL	CA 95037-6219
1150	EASY	ST 779-40-004	KAMMERMEYER JOHN A AND JANET	1150 EASY ST	MORGAN HILL	CA 95037-6219
	SAN PEDRO	AV 817-01-001	ETPH LP	P O BOX 567	LOS GATOS	CA 95031
16770	MONTEREY	RD 817-01-005	HUNG LEE ET AL	1947 WILSON CT	MOUNTAIN VIEW	CA 94040-4056
16780	MONTEREY	RD 817-01-006	HUNG LEE ET AL	1947 WILSON CT	MOUNTAIN VIEW	CA 94040-4056
	MYRTLE	AV 817-01-053	DANEL ELIZABETH	PO BOX 728	TIBURON	CA 94920
		817-01-054	DANEL ELIZABETH	PO BOX 728	TIBURON	CA 94920
	CHURCH	ST 817-01-056	FARIS JOSEPH E	15005 CONCORD CL	MORGAN HILL	CA 95037-5448
	RAILROAD	AV 817-01-058	UNION PACIFIC RAILROAD	10031 FOOTHILLS BLVD	ROSEVILLE	CA 95747
16855	CHURCH	ST 817-01-061	Schuyler, Paul	1518 Padres Drive	San Jose	CA 95125
16820	MONTEREY	RD 817-01-062	ALCINI PARTNERSHIP INC	1518 PADRES DR	SAN JOSE	CA 95125-1862
16830	MONTEREY	RD 817-01-063	ALCINI PARTNERSHIP	1518 PADRES DR	SAN JOSE	CA 95125-1862
	CHURCH	ST 817-01-064	ALCINI PARTNERSHIP	1518 PADRES DR	SAN JOSE	CA 95125-1862
16685	CHURCH	ST 817-02-001	TRUONG HO DAI AND NGUYET LE	10787 PORTER LN	SAN JOSE	CA 95127
	SAN PEDRO	AV 817-02-025	ZANARDI GEORGE E AND BETTY L	18668 MEADOWLARK CT	PENN VALLEY	CA 95946-9655
16495	VINEYARD	BL 817-02-043	MANGANO MICHAEL T	901 COMMERCIAL ST UNIT	SAN JOSE	CA 95112
16470	VINEYARD	BL 817-02-044	MANGANO MICHAEL T	901 COMMERCIAL ST UNIT	SAN JOSE	CA 95112
175	MAST	ST 817-02-047	FARIS JOSEPH E	1359 RIMROCK DR	SAN JOSE	CA 95120-5608
		817-02-048	FARIS JOSEPH E	1359 RIMROCK DR	SAN JOSE	CA 95120-5608
	MAST	ST 817-02-050	ALCINI PARTNERSHIP	1518 PADRES DR	SAN JOSE	CA 95125-1862
		817-02-055	LABRUCHERIE ARMAND R AND	941 A BERRYESSA RD	SAN JOSE	CA 95133
		817-02-056	LABRUCHERIE ARMAND R AND	941 A BERRYESSA RD	SAN JOSE	CA 95133
		817-02-057	LABRUCHERIE ARMAND R AND	941 A BERRYESSA RD	SAN JOSE	CA 95133

**2005 HAZARDOUS VEGETATION MANAGEMENT PROGRAM
COMMENCEMENT REPORT
CITY OF MORGAN HILL**

SITUS			APN	OWNER	ADDRESS	CITY/STATE	ZIP
			817-02-060	LABRUCHERIE ARMAND R AND	941 A BERRYESSA RD	SAN JOSE	CA 95133
			817-02-061	LABRUCHERIE ARMAND R AND	941 A BERRYESSA RD	SAN JOSE	CA 95133
			817-02-062	LABRUCHERIE ARMAND R AND	941 A BERRYESSA RD	SAN JOSE	CA 95133
199	MAST	ST	817-02-064	ARMAND AGRA INC, ET AL	66 GEORGE LN STE 101	SAUSALITO	CA 94964-1890
16500	CHURCH	ST	817-02-065	CHURCH & MONTEREY RD ASSOCS	9015 MURRAY AV STE 100	GILROY	CA 95020
16215	CHURCH	ST	817-03-023	TARP ROBERT E	15290 LA ROCCA DR	MORGAN HILL	CA 95037-5813
	TENNANT	AV	817-04-009	GERA MARKO TRUSTEE	19136 SPRING BROOK LN	SARATOGA	CA 95070-6241
	TENNANT	AV	817-04-039	GERA MARKO TRUSTEE	19136 SPRING BROOK LN	SARATOGA	CA 95070-6241
75	TENNANT	AV	817-04-049	GERA MARKO TRUSTEE	19136 SPRING BROOK LN	SARATOGA	CA 95070-6241
195	TENNANT	AV	817-04-051	VILLAFRANCA ANTHONY F AND PAT	10561 HIDDEN MESA PL	MONTEREY	CA 93940
16075	VINEYARD	BL	817-05-044	BALLARD GLORIA V ET AL	P.O. BOX 1029	MORGAN HILL	CA 95038
16250	VINEYARD	BL	817-05-065	HURLBUT PETER S TRUSTEE & ET	57 SMOKE TREE LN	WOODSIDE	CA 94062-3645
240	VINEYARD	CT	817-05-067	BNJN INVESTMENTS LLC	75 CHRISTICH LN	CAMPBELL	CA 95008
			817-05-069	LOVATO JORGE A JR	375 TENNANT AV	MORGAN HILL	CA 95037
			817-06-015	UNION PACIFIC RAILROAD	10031 FOOTHILLS BLVD	ROSEVILLE	CA 95747
	CONCORD	CL	817-06-028	VANNI LAND CO	8535 LARKSPUR LN	GILROY	CA 95020
800	TENNANT	AV	817-08-030	D DEVI OIL INC	28456 CENTURY ST	HAYWARD	CA 94545
	JUAN	DR	817-09-036	D & D RANCH	99 ALMADEN BL UNIT 565	SAN JOSE	CA 95113-1604
	JUAN	DR	817-09-038	D & D RANCH	99 ALMADEN BL UNIT 565	SAN JOSE	CA 95113-1604
	JUAN	DR	817-09-039	SAN JOSE HEALTH CENTER	2085 E HAMILTON AV STE	SAN JOSE	CA 95125
	JUAN	DR	817-09-041	SAN JOSE HEALTH CENTER	2085 E HAMILTON AV STE	SAN JOSE	CA 95125
	JUAN	DR	817-09-046	D & D RANCH	99 ALMADEN BL UNIT 565	SAN JOSE	CA 95113-1604
	TENNANT	AV	817-09-051	CHIRI FAMILY LTD PARTNERSHIP	99 ALMADEN BL UNIT 730	SAN JOSE	CA 95113-1605
715	SAN RAMON	CT	817-10-020	Mr. & Mrs. Mun	715 San Ramon Court	Morgan Hill	CA 95037

**2005 HAZARDOUS VEGETATION MANAGEMENT PROGRAM
COMMENCEMENT REPORT
CITY OF MORGAN HILL**

SITUS		APN	OWNER	ADDRESS	CITY/STATE	ZIP
965 A	SAN PEDRO	AV 817-11-001	DUNNE AVENUE VENTURES	10015 DOUGHERTY AV	MORGAN HILL	CA 95037-9390
		817-11-069	MURPHY RANCH II LP	2 N 2ND ST STE 1250	SAN JOSE	CA 95113
16995	CONDIT	RD 817-12-003	ENSCH DONALD TRUSTEE	PO BOX 7152	VENTURA	CA 93006-7152
16275	CONDIT	RD 817-13-024	NGUYEN NHIEU	5027 HELEO AV	TEMPLE CITY	CA 91780
		817-13-033	OW UE C AND PATRICIA P	6588 ASHFIELD CT	SAN JOSE	CA 95120-4502
16695	CONDIT	RD 817-13-034	ETCHEBARNE RAYMONDE	PO BOX 595	MORGAN HILL	CA 95038-0595
16131	CONDIT	RD 817-13-035	OW UE C	6588 ASHFIELD CT	SAN JOSE	CA 95120-4502
	HILL	RD 817-20-031	SANTA CLARA LAND TITLE CO	1115 COLEMAN AV	SAN JOSE	CA 95110-0000
	TENNANT	AV 817-20-034	GRANGER-AKIN SUE G TRUSTEE	411 LAURENT ST	SANTA CRUZ	CA 95060
16015	CAPUTO	DR 817-29-027	MR. & MRS. FRANK F. C HUANG	5647 ALGONQUIN WAY	SAN JOSE	CA 95138
		817-31-053	MONTAN INC	11625 MONTANA AV UNIT	LOS ANGELES	CA 90049
16290	BARRETT	AV 817-32-054	CLEGHORN BAR ENTPRS II LLC	27370 JULIETTA LN	LOS ALTOS HILLS	CA 94022-4326
16175	JACQUELINE	CT 817-32-055	CLEGHORN BAR ENTPRS LLC	27370 JULIETTA LN	LOS ALTOS HILLS	CA 94022-4326
	BARRETT	AV 817-33-003	ODISHO PENOEIL ET AL	6623 WHITBOURNE DR	SAN JOSE	CA 95120-4534
2835	VISTA DEL	817-56-006	CLANCY ELLEN M TRUSTEE	2835 VISTA DEL VALLE	MORGAN HILL	CA 95037-3932
445	BARRETT	AV 817-57-008	MOLINARO ROBERT J AND CAROL E	PO BOX 1048	PLEASANTON	CA 94566-1048
	BARRETT	AV 817-57-009	CARLOTTO JOHN	22076 LIPPENCOTT CT	BURNEY	CA 96013
	CORY	LN 817-57-011	SUTTER COURT DEVELOPMENT	777 N 1ST ST UNIT 5TH FLR	SAN JOSE	CA 95112
		817-57-019	SUTTER COURT DEVELOPMENT	777 N 1ST ST UNIT 5TH FLR	SAN JOSE	CA 95112
395	BARRETT	AV 817-58-001	NAPA ASSOCIATES	9548 ESTATES DR	GILROY	CA 95020
340	SAN PEDRO	AV 817-58-011	MARGHERITA EUGENE AND JO	2303 KIMBERLY CT	MORGAN HILL	CA 95037-0000
620	SAN PEDRO	AV 817-59-060	HIGASHI HENRY T AND HISAKO	620 SAN PEDRO AV	MORGAN HILL	CA 95037-5215
		817-60-057	LAUREL OAKS LLC	15165 SYCAMORE	MORGAN HILL	CA 95037-9619
16400	JUAN	DR 817-60-062	E & H 3RD FAM LP	21009 SEVEN SPRINGS PY	CUPERTINO	CA 95014

**2005 HAZARDOUS VEGETATION MANAGEMENT PROGRAM
COMMENCEMENT REPORT
CITY OF MORGAN HILL**

SITUS		APN	OWNER	ADDRESS	CITY/STATE	ZIP
16410	JUAN	DR 817-60-063	E & H 3RD FAM LP	21009 SEVEN SPRINGS	CUPERTINO	CA 95014
	SAN VICENTE	CT 817-60-064	E & H 3RD FAM LP	21009 SEVEN SPRINGS PY	CUPERTINO	CA 95014
830	SAN VICENTE	CT 817-60-065	E & H 3RD FAM LP	21009 SEVEN SPRINGS	CUPERTINO	CA 95014
840	SAN VICENTE	CT 817-60-066	E & H 3RD FAM LP	21009 SEVEN SPRINGS PY	CUPERTINO	CA 95014
850	SAN VICENTE	CT 817-60-067	E & H 3RD FAM LP	21009 SEVEN SPRINGS PY	CUPERTINO	CA 95014
16655	NINA	LN 817-60-068	DOAN DAO MINH ET AL	16655 NINA LN	MORGAN HILL	CA 95037-5241
16665	NINA	LN 817-60-076	CAFFEY MICHAEL E ET AL	16665 NINA LN	MORGAN HILL	CA 95037-5241
2745	TORO VISTA	CT 817-70-005	CARRERA HOMES INC	10061 PASADENA AV UNIT A	CUPERTINO	CA 95014
2785	TORO VISTA	CT 817-70-007	SHAPERO STEVEN AND MICHELE	1026 LAKEVIEW WY	EMERALD HILLS	CA 94062



CITY COUNCIL STAFF REPORT

MEETING DATE: January 19, 2005

Agenda Item # 19

Prepared By:

Associate Planner

Approved By:

Planning Manager

Submitted By:

City Manager

Development Agreement DA-04-06: Cochrane-Borello

RECOMMENDED ACTION(S):

1. Open/close Public Hearing
2. Waive the First and Second Reading of Ordinance
3. Introduce Ordinance

EXECUTIVE SUMMARY: The applicant is requesting approval of a project development agreement for a 15-lot subdivision to be constructed on a 13.66-acre parcel located at Cochrane Road and St. Mark's Road for a site rezoned R1-20,000. The property is outside the City Limits but within the Urban Service Area. Staff expects the annexation process to be completed within the next 30-60 days.

The project competed in the 2003 Measure P competition. In April 2004, the Cochrane-Borello project received residential building allotments for eight units for FY 2005-2006 and seven units for FY 2006-2007 in the 2003 small project RDCS competition.

The applicant is requesting approval of the project development agreement. The development agreement will be for the entire project. Project development agreements are required as a formal contract between the developer and the City. The development agreement formalizes the commitments made during the Measure P process and establishes the development schedule for the project. The project specific commitments are identified in Paragraph 14 of the development agreement, and the development schedule is contained in Exhibit B.

This application was reviewed by the Planning Commission at its December 14, 2004 meeting. The Commission voted 6-0 recommending approval of the Development Agreement, as prepared. The Planning Commission staff report is attached for the Council's reference.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing this application.

ORDINANCE NO. , NEW SERIES

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF MORGAN HILL APPROVING A
DEVELOPMENT AGREEMENT FOR APPLICATION
MP-03-04: COCHRANE-BORELLO. (APN 728-34-007)
(DA-04-06: COCHRANE-BORELLO)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY
ORDAIN AS FOLLOWS:**

SECTION 1. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No 04-037, adopted April 13, 2004, has awarded allotments to a certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP-03-04: Cochrane-Borello	8 units (Fiscal Year 2005-06)
	7 units (Fiscal Year 2006-07)

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 6. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 7. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 8. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.
Final Map.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the **XX** Day of January 2005, and was finally adopted at a regular meeting of said Council on the **XX** Day of February 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

⌘ CERTIFICATE OF THE CITY CLERK ⌘

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the **XX** Day of February 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: *January 19, 2005*

GENERAL PLAN AMENDMENT & ZONING AMENDMENT, GPA-04-07/ZA 04-14: CITY OF MORGAN HILL- DOWNTOWN PLAN.

RECOMMENDED ACTION(S):

Open/close Public Hearing

Adopt Mitigated Negative Declaration

Adopt Resolution Approving General Plan text amendments.

Adopt Resolution Approving General Plan Land Use map amendments.

Waive/Introduce the First and Second Reading of Ordinance incorporating an R-4 Multi-Family High into the Morgan Hill Municipal Code.

Waive/Introduce the First and Second Reading of Ordinance amending the City's Zoning Map.

Waive/Introduce the First and Second Reading of Ordinance designating the "Sunsweet Property" as a PUD.

Waive/Introduce the First and Second Reading of Ordinance amending Chapter 18.50 Off-Street Parking and Paving Standards, of the Morgan Hill Municipal Code.

Agenda Item # 20

Prepared By:

Senior Planner

Approved By:

Planning Manager

Submitted By:

City Manager

EXECUTIVE SUMMARY: A request for City Council adoption of the updated Morgan Hill Downtown Plan, Environmental Assessment for the Downtown Plan, General Plan Text and Land Use Map amendments and Zoning Text and Map amendments required to implement the proposed Morgan Hill Downtown Plan.

In May 2003, the City Council conceptually approved the update of the Downtown Plan. Prior to the City Council's formal adoption and implementation of the Downtown Plan, the plan needed to be evaluated in accordance with the California Environmental Quality Act, CEQA. An expanded initial study for the proposed Downtown Plan has been completed. The expanded initial study has not identified any significant impacts which cannot be avoided through mitigation measures.

A specific list of implementation tasks is included within the Downtown Plan (pgs. 55-64). The tasks have been categorized as: land use, circulation, parking, urban design, development assistance, and public improvement priorities. The attached memorandum discusses proposed General Plan text amendments, General Plan map amendments and zoning text and map amendments necessary to complete several of the Downtown Plan implementation tasks.

On December 14, 2004 the Planning Commission considered the Mitigated Negative Declaration, General Plan and zoning text and map amendments. The Commission voted 5-0 to recommend City Council approval of the proposed General Plan and zoning amendments. A copy of the December 14, Planning Commission draft minutes are attached for the Council's reference.

FISCAL IMPACT: The City Council approved \$90,000 from the Traffic Impact Fee Fund and \$50,000 from the RDA Fund to cover the cost associated with the Downtown Plan Update.



MEMORANDUM

To: ED TEWES, CITY MANAGER

Date: January 19, 2005

From: COMMUNITY DEVELOPMENT DEPARTMENT

Subject: GENERAL PLAN AMENDMENT & ZONING AMENDMENT, GPA-04-07/ZA 04-14: CITY OF MORGAN HILL-DOWNTOWN PLAN.

REQUEST

A request for City Council adoption of the updated Morgan Hill Downtown Plan, Environmental Assessment for the Downtown Plan, General Plan Text and Land Use Map amendments and Zoning Text and Map amendments.

BACKGROUND

The proposed Downtown plan includes specific goals and objectives that create a vision for the Morgan Hill Downtown area which is defined by the plan as the area north of Dunne Ave., south of Main Ave., west of the railroad and east of Del Monte Ave.

In May 2003, the City Council conceptually approved the update of the Downtown Plan. The Downtown Plan is the result of the efforts of a Downtown Task Force appointed by the City Council and the Cannon Design Group. The Downtown Plan will replace a current plan adopted in 1980. Prior to the City Council's formal adoption of the Downtown Plan, the plan needed to be evaluated in accordance with the California Environmental Quality Act, CEQA.

Prior to the completion of the environmental documentation for the Downtown Plan, the City Council asked staff to move forward with implementation of the portions of the plan which did not require CEQA review. On August 8, 2004 the City Council approved an ordinance adopting revised uses and site development standards for the Central Commercial-Residential (CC-R) zoning district.

CASE ANALYSIS

Mitigated Negative Declaration: As previously mentioned; the City Council has conceptually approved the proposed Downtown Plan. An expanded initial study has been completed for the Downtown Plan. The document discusses the potential impacts associated with the adoption and implementation of the proposed plan and identifies mitigation measures to address potential impacts that may occur.

The expanded initial study has not identified any significant impacts which cannot be avoided through mitigation measures. The majority of the mitigations proposed within the study are General Plan policies which were adopted for the purpose of avoiding or mitigating negative environmental effects that may occur from future development. The traffic portion of the study analyzed the increase in traffic that may result from the increased densities proposed within the Downtown Plan. The traffic study concluded that the increase in densities would not result in a significant impact.

The traffic study also included an analysis of the Downtown plan's recommend options for Monterey Rd. through the Downtown. Based on the information from the traffic analysis, it was concluded that "Option #1: Monterey Rd. Narrowing" would result in significant impacts to various intersections sometime after 2010. To mitigate the impacts, Monterey Rd. would need to be widened back to two lanes once significant congestion begins to occur. To permanently narrow Monterey Rd. to one lane in each direction would require an amendment to the General Plan Circulation Element and the completion of an Environmental Impact Report. If the Council decides to select traffic calming "Option #2" or the temporary narrowing of Monterey Rd.; the expanded initial study has concluded that a less than significant impact would occur.

The City Council held a workshop in October to discuss the information from the traffic study and the Monterey Rd. options. The Council members asked staff to focus on traffic calming measures which could be applied to the downtown in lieu of lane reduction. Additional data has been collected and traffic calming plans are being developed by Public Works staff for the Council's consideration. This will be presented at the January 19 Council meeting as a separate agenda item.

On December 14, the Planning Commission reviewed the expanded initial study and the proposed mitigated negative declaration. The Commission has recommended City Council approval the proposed mitigated negative declaration.

The Downtown Plans Goal and Objectives: The Downtown Plan contains a list of specific implementation tasks (pgs. 55-64). The implementation tasks have been categorized as: land use, circulation, parking, urban design, development assistance, and public improvement priorities. The list of implementation tasks is very extensive. At this time, the City Council is being asked to consider a series of General Plan and Zoning text and map amendment which will implement tasks and objectives listed under the land use, urban design and parking task categories.

General Plan Text Amendments

Mixed Use Designation: The proposed Downtown Plan describes several different densities for various areas within the downtown. The densities described in the Downtown Plan do not correspond to the densities currently described within the General Plan. For example, the Downtown Plan defines “Medium Density Residential” as 8-18 du/ac in areas proposed for “Mixed Use” land use designation. The current General Plan defines “Medium Density Residential” as 14-21 du/ac.

The current General Plan Land Use element does not include the Mixed Use District as a Residential Land Use Designation. Mixed Use is currently defined only under the Non-Residential Designations as a mixture of retail uses and residences. Since Mixed Use has not been defined as a residential land use staff recommends that the density for the Mixed Use land use designation be defined as 8-18 dwelling units per acre. The 8-18 dwelling units per acre density would be consistent with the density allowed under the current Central Commercial-Residential, CC-R zoning designation and it would match the Downtown Plan’s description of the appropriate density within the majority of the downtown area.

The Downtown Plan also recommends applying a Mixed Use designation to, two separate areas that due to their proximity to the Cal Train facility have been specified to have a density range of 18-40 du/ac. The proposed density range exceeds the densities described in the previous paragraph for the “Mixed Use” designation. Since only two sites have been singled out for the 18-40 dwelling unit density within the “Mixed Use” designated area, it is recommended that these sites be called out as “opportunity sites” by the General Plan to allow for the increase density to occur under the guidance of a Planned Unit Development zoning designation. The two sites recommended to be designated as “opportunity sites” are the Dunne Ave. PUD site and the Sunsweet site. (See attached Exhibits 3 & 4)

The Dunne Ave. PUD site is a 7 acre site located on the north side of Dunne Ave., south of Diana Ave., west of Butterfield Blvd., and east of the railroad tracks (Exhibit 3). The Downtown plan recommends changing the land use designation in this area from Commercial to Mixed Use, with a density range of 18-40 dwelling units per acre.

The Sunsweet site is defined by the Downtown Plan as the block north of Fourth St., South of Third, west of Depot and east of Monterey Rd. (Exhibit 4) The current land use designation for this area is Mixed Use. The Downtown plan does not recommend changing the land use designation on the Sunsweet site but describes a specific density range of 35-40 du/ac and outlines very specific development standards for the area.

In October 2004, the City Council expressed interest in considering third opportunity site within the downtown. The site is approximately .56 acres and is located between east First St. and Second St. (Exhibit 7). These three parcels currently function as a parking lot for the Downtown Mall and Granada Theatre. The parcels’ proximity to the transit facilities within the downtown make it ideal for a higher density mixed use project. The current land use designation for the area is Mixed Use. If the site is included as an opportunity site, the density range could be increased to 18-40 dwelling units per acre.

To implement the various density ranges within the Mixed Use zone, Staff is recommending the following paragraph be added to the Residential Land Use Designation section (page 16) of the Community Development Chapter of the General Plan.

Mixed Use: *Applied in accordance with the Downtown Plan, this designation covers 68 acres of smaller parcels with the downtown area. It is intended to encourage a mixture of commercial and residential uses. The mixed use designation allows for as many as 8 to 18 dwelling units per acre with the exception of three opportunity sites which are defined as follows:*

The “Sunsweet Property” which encompasses APN’s 726-13-032, 033, 034, 041, 042, 043 & 044 shall develop at a density of 35-40 du/ac, only as part of a single Planned Unit Development.

The “Dunne Ave. PUD” which encompasses APN’s 726-04-003, 006, 007, 008, 011 & 012. Each of which shall develop at a density of 18-40 du/ac, only as part of single Planned Unit Development.

The parking lot area for the Downtown Mall & Granada Theatre which encompasses APN’s 726-14-025, 026 & 03, shall develop at a density of 35-40 du/ac, only as part of a single Planned Unit Development.

To account for the increase in acreage of the Mixed Use land use designation (see the Land Use Map Amendment section of report), Page 20 the existing definition of the Mixed Use in the Non Residential Land Use section should be amended as follows:

Mixed Use. *Applied in accordance with the Downtown plan, this designation covers 50 68 acres of smaller parcels within the downtown area. It is intended to encourage a mixture of retail uses and residences*

On December 14, the Planning Commission considered the above text amendments and recommended that the City Council consider a unified density range for the three opportunity sites as opposed to the variations contained within the Downtown Plan. The Commission recommended a density range of 25-40 dwelling units per acre for each of the three opportunity sites. The Commission’s recommendation for a 25-40 dwelling units per acre density has been incorporated into the attached General Plan amendment resolution.

Multi-Family High Designation: The Downtown plan describes a Multi-Family High (21-40 du/ac) land use designation. The plan proposes this density for the Flea Market site (APN 726-15-068) and the Associated Concrete site (APN 726-15-001) (see Exhibit 5). The highest density allowed under the current general plan is Multi-Family Medium with 14 to 21 dwelling units per acre. To implement the Multi-Family High density range, it is recommended that the following paragraph be added to the Residential Land Use Designation section (page 16) of the Community Development Chapter of the General Plan:

Multi-family High. Pockets of Multi-Family High, the highest density residential designation, accounts for 6.49 acres primarily centered in the downtown area and the commuter rail station. Development within this area shall be supportive of transit oriented design (e.g., development intensity, pedestrian orientation and linkages,

parking placement and design, development concentrations, etc.) this designation may accommodate as many as 40 dwelling units per acre most of which would be attached apartments or condominiums.

To further implement the Mixed Use and Multi-Family High land use designations, it is recommended that Table 2 on page 14 be amended to include the new Multi-Family High land use and prescribe a density range for the Mixed Use lands use designation. The amended table (added text shown in bold italic) would appear as follows:

<i>Table 2</i>						
<u><i>Urban Land Use Designations</i></u>						
Land Use Designations	Acres	Primary Uses	Density Range	Minimum Lot Area	Maximum Building Coverage	Maximum Building Height
Residential Estate	1,216	Detached homes	<1 unit/acre	40,000 sf	30%	30 feet
Single Family Low	1,279	Detached homes	1-3 units/acre	12,000 sf	40%	30 feet
Single Family Medium	1,801	Detached homes	3-5 units/acre	7,000 sf	50%	30 feet
Multi-Family Low	531	Detached homes and attached homes	5-14 units/acre	6,000 sf	50%	30 feet
Multi-Family Medium	171	Attached homes	14-21 units/acre	6,000 sf	60%	30 feet
<i>Multi-Family High</i>	<i>7</i>	<i>Attached homes</i>	<i>21-40 units/acre</i>	<i>6,000 sf</i>	<i>60%</i>	<i>45 feet</i>
Commercial	454	Retail, office, services	N/A	20,000 sf	50%	30 feet
Non-Retail Commercial	36	Offices, services	N/A	6,000 sf	50%	35 feet
General Commercial	24	Retail, office, services	N/A	10,000 sf	50%	35 feet
Mixed Use	50 <i>68</i>	<i>Attach homes mixed with</i> Retail, office, services,	<i>8-18 units/acre</i>	<i>(Commercial)</i> 10,000 sf	60%	Com. 35 <i>feet</i>
			<i>Opportunity Sites 25-40 units/acre</i>	<i>(Residential)</i> <i>6,000 sf</i>		<i>Res. 45 feet</i>
Industrial	1,112	Warehouse, offices, manufacturing	N/A	20,000 sf	50%	50 feet
Office Industrial	26	Offices R& D	N/A	20,000 sf	50%	50 feet
Campus Industrial	18	Wholesale High-tech, R & D	N/A	20 acres	20%	35 feet
Public Facilities	253	Publicly owned	N/A	NA	50%	35 feet

The Planning Commission reviewed the proposed Mixed Use definition and the changes to General Plan “Table 2”. The Commission recommends Council’s approval of the proposed text changes with the recommendation that the maximum building height be modified from 45 ft. to 48 ft. The Planning Commission’s recommended height amendment has been incorporated into the attached Council resolution.

General Plan Land Use Map & Zoning Map Amendments:

To implement the Downtown Plan the General plan land use designation on approximately 25 acres will need to be amended. These areas are defined as follows:

1. “Gunter Bro./Napa block” General Plan land use designation to change from Commercial to Mixed Use. (Exhibit 1).
2. “Flea Market/Concrete site” General Plan land use designation to change from Industrial to Multifamily High. (Exhibit 2).
3. “Dunne Ave. PUD”: General Plan land use designation to change from Commercial to Mixed use on 7.32 acres (Exhibit 3). The zoning designation on the “Dunne Ave. PUD” site is currently PUD, therefore the current zoning designation will not need to be amended.

The Planning Commission recommended that the uses for the Dunne Ave. PUD should be further defined to avoid development that would directly compete with the retail businesses in the downtown particularly when considering the orientation of the new court house facility.

To implement the Downtown Plan the zoning designation on the following parcels will need to be amended:

1. Sunsweet Properties: Zoning designation to change from Central Commercial Residential CC-R to Planned Unit Development PUD (Exhibit 4).

The Downtown plan contains very specific development and design perimeters for the Sunsweet site. To address the multiple development perimeters, staff is recommending that the site be required to develop under a Planned Unit Development PUD, zoning designation. The currently proposed PUD ordinance requires the development of a precise development plan which contains all of the development perimeters listed within the Downtown plan.

2. “Flea Market/Concrete site” Zoning designation to change from Light Industrial ML, to Multifamily High, R-4. (Exhibit 5).
3. “Gunter Bro./Napa block” Zoning designation to change from General Commercial to Central Commercial Residential, CC-R. (Exhibit 6).
4. “East First St./East Second St. site” Zoning designation to change from Central Commercial-Residential CC-R, to PUD. The proposed PUD ordinance would allow the property to develop at a higher density but also allow some additional control to assure compatible development that is consistent with the goals of the Downtown Plan. (Exhibit 7).

The Commission recommended approval of the proposed General Plan and Zoning map amendments. The Commission recommended that the PUD guidelines for the Sunsweet property be amended to allow for a driveway access to a public parking area from Third St., eliminate residential use as Conditional Use in first floor locations and amend the density to 25-40 dwelling units per acre to provide a consistent density with other opportunity sites identified in the Downtown Plan.

Multi-Family High R-4 Zoning Text Amendment:

To implement the densities recommended under the Multi-Family High land use designation, zoning criteria will need to be established to define the development standards for the Multi-Family High land use designation. Attached to this report is a proposed zoning ordinance defining a new "R-4, Multi-Family High zoning" district. The proposed R-4 zoning chapter is similar to the R-3 but the R-4 will allow for a 6000 sq. ft. minimum lot size, 15 ft. front/rear setbacks, minimum site area per dwelling unit of 1100 sq. ft. and a maximum height of 45ft.

The Commission recommended approval of the proposed R-4 zoning text with the recommendation that the building height limitation be raised from 45 ft. to 48 ft. with a minimum of 10 ft. devoted to a roof element on a three story structure.

Parking Requirements:

The Downtown plan recommends that the City review its current parking ordinance requirements to eliminate impediments for businesses trying to locate within the Downtown area. Specifically the plan proposes the elimination of the parking requirement for infill development within the downtown and the guest parking requirements for residential uses.

To facilitate businesses locating within the downtown, the City's current parking ordinance contains the following provision which applies only to the CC-R zoning district for parcels fronting on Monterey Highway.

18.50.025 Parking in CC-R, central commercial residential zone

For lots of record in the CC-R, central commercial-residential zoning district on Monterey Highway, there shall be no requirement for provision of additional on-site parking for properties involving any of the following:

- A. Establishing or intensification of commercial uses in structures which existed prior to August 1, 1992;
- B. Permitted reconstruction of structures with the same or smaller building floor areas;
- C. Lots of 8,000 or fewer square feet which were vacant on August 1, 1992.

For parcels in the central commercial-residential zoning district which do not meet these requirements, the parking standards of Section 18.50.020 shall be required unless otherwise provided by this title. (Ord. 1099 N.S. § 1, 1992)

The Downtown plan proposes that all commercial business (existing and proposed) be exempt from providing on-site parking. A Parking Resources Management Plan is currently being developed to provide for the future parking demands within the Downtown area. The elimination of the on-site parking requirement would also facilitate the conversion of existing residential units for commercial use. Staff recommends the following text replace the current text found under section 18.50.025:

18.50.25 Parking in CC-R, central commercial residential zone

For lots of record in the CC-R, central commercial-residential zoning district ~~on Monterey Highway~~, there shall be no requirement for provision of ~~additional on-site parking for properties involving any of the following:~~
for commercial uses. On-site parking for residential to commercial conversion will be prohibited unless it is provided at the rear of the parcel and can be accessed from Main Avenue or Depot Street.

- ~~A. Establishing or intensification of commercial uses in structures which existed prior to August 1, 1992;~~
- ~~B. Permitted reconstruction of structures with the same or smaller building floor areas;~~
- ~~C. Lots of 8,000 or fewer square feet which were vacant on August 1, 1992.~~

~~For parcels in the central commercial-residential zoning district which do not meet these requirements, the parking standards of Section 18.50.020 shall be required unless otherwise provided by this title. (Ord. 1099 N.S. § 1, 1992)~~

The Downtown Plan also proposes the elimination of the guest parking requirement for residential development within the CC-R zoning district. Currently each of the four residential (single family, multi-family, single family senior and multi-family senior) parking standards contain a provision which requires guest parking at a certain ratio. To eliminate the guest parking requirement for the CC-R district, staff recommends that the following statement be added to each of the four guest parking statements found under Municipal Code section 18.50.020 Number or spaces—Schedule:

The provision of guest parking is not required for existing or proposed residential development within the CC-R zoning district.

The Planning Commission did not recommend modification of the current parking requirements until the completion of the Parking Management study. The Parking Management Study is expected to be completed in June. The Commission also had concerns about eliminating the on-site parking requirements for the proposed Mixed Use area north of E. Main Ave. (Gunter

Bros./Napa block) because of its distance from current and potential public parking lots. The Commission recommends that the proposed parking code changes not be made until the Parking Management study is completed. If the Council is interested in implementing the proposed parking code changes discussed above, an ordinance implementing the above changes has been attached.

Design & Sign Guidelines: The City is in the process of updating the City's Architectural Review Handbook and Design Review Ordinance. As part of the Design Review Ordinance update proposal, the Design Guidelines from the Downtown plan are proposed to be included in Municipal Code Chapter 18.74 and as a separate section within the newly proposed Architectural Review Handbook.

RECOMMENDATION

The expanded initial study completed for the proposed Downtown plan has concluded that all significant impacts that could result from the implementation of the plan can be mitigated. City Council approval of the Mitigated Negative Declaration is recommended.

The proposed General Plan text amendments defining Mixed Use and Multi-family High residential land use categories are recommended for City Council approval.

General Plan and Zoning Map amendments which increase or redefine the density and development standards for specific sites within the Downtown are also recommended for Council approval.

The Planning Commission has not recommended Council approval of the proposed parking ordinance amendments at this time. The Commission recommends that the proposed parking amendments be considered after the Parking Management Study is completed in June.

As a final recommendation to the City Council, the Planning Commission has recommended consideration of a more consistent and higher density (up to 60 dwellings per acre) throughout the downtown. The Commission has also recommended that staff be directed to devise a plan and implementation procedures for adding at least 50,000 sq. ft. more commercial/retail. The plan should also identify the source and location of the additional square footage. An increase in density throughout the Downtown and the identification of specific commercial retail space would require significant modification of the current environmental initial study. The Council may wish to give direction to staff on future density considerations or plan amendments that the Council may be interested in.

Attachments:

- Mitigated Negative Declaration
- Resolution approving General Plan text amendments.
- Resolution approving General Plan Land Use map amendments.
- Ordinance incorporating an R-4 Multi-family High into the Morgan Hill Municipal Code.
- Ordinance approving Zoning Map amendments
- Ordinance designating the "Sunsweet Property" as a PUD.
- Ordinance amending Chapter 18.50 Off-Street Parking and Paving Standards, of the Morgan Hill Municipal Code

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A GENERAL PLAN TEXT AMENDMENT TO INCORPORATE MIXED USE AS A RESIDENTIAL LAND USE DESIGNATION AND INCLUDE A MULTI-FAMILY HIGH RESIDENTIAL LAND USE DESIGNATION INTO THE GENERAL PLAN TEXT.

WHEREAS, such request was considered by the City Council at their regular meeting of January 19, 2005, at which time the City Council approved GPA-04-07: City of Morgan Hill-Downtown Plan; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. The General Plan text amendment is consistent with the provisions of the General Plan and Downtown Plan and Chapter 18.78 of the Zoning Code.

SECTION 2. An environmental initial study has been prepared for this application, and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A mitigated Negative Declaration will be filed.

SECTION 3. The General Plan shall be amended as identified in the attached Exhibit "A", and by this reference incorporated herein.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 19th Day of January, 2005 by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

🔒 CERTIFICATION 🔒

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on January 19, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

EXHIBIT A

**AMENDMENT TO THE COMMUNITY DEVELOPMENT CHAPTER OF THE 2001
CITY OF MORGAN HILL GENERAL PLAN**

1. The following paragraph shall be added to the Residential Land Use Designation section (page 16) of the Community Development Chapter of the General Plan.

Mixed Use: Applied in accordance with the Downtown Plan, this designation covers 68 acres of smaller parcels with the downtown area. It is intended to encourage a mixture of commercial and residential uses. The mixed use designation allows for as many as 8 to 18 dwelling units per acre with the exception of three opportunity sites which are defined as follows:

The “Sunsweet Property” which encompasses APN’s 726-13-032, 033, 034, 041, 042, 043 & 044 shall develop at a density of 35-40 du/ac, only as part of a single Planned Unit Development.

The “Dunne Avenue PUD” which encompasses APN’s 726-04-003, 006, 007, 008, 011 & 012. Each of which shall develop at a density of 18-40 du/ac, only as part of single Planned Unit Development.

The parking lot area for the Downtown Mall which encompasses APN’s 726-14-025, 026 & 03, shall develop at a density of 35-40 du/ac, only as part of a single Planned Unit Development.

2. The following paragraph shall be added to the Residential Land Use Designation section (page 16) of the Community Development Chapter of the General Plan:

Multi-family High. Pockets of Multi-Family High, the highest density residential designation, accounts for 6.49 acres primarily centered around the downtown area and the commuter rail station. Development within this area shall be supportive of transit oriented design (e.g., development intensity, pedestrian orientation and linkages, parking placement and design, development concentrations, etc.) this designation may accommodate as many as 35 dwelling units per acre most of which would be attached apartments or condominiums.

3. Page 20 of the existing definition of the Mixed Use in the Non Residential land use section shall be amended as follows:

***Mixed Use.* Applied in accordance with the Downtown Plan, this designation covers ~~50~~ 68 acres of smaller parcels within the downtown area. It is intended to encourage a mixture of retail uses and residences**

4. Table 2 on page 14 shall be amended to include the new Multi-Family High land use and prescribe a density range for the Mixed Use lands use designation. The amended table (added text shown in bold italic) shall appear as follows:

<i>Table 2</i>						
<u>Urban Land Use Designations</u>						
Land Use Designations	Acres	Primary Uses	Density Range	Minimum Lot Area	Maximum Building Coverage	Maximum Building Height
Residential Estate	1,216	Detached homes	<1 unit/acre	40,000 sf	30%	30 feet
Single Family Low	1,279	Detached homes	1-3 units/acre	12,000 sf	40%	30 feet
Single Family Medium	1,801	Detached homes	3-5 units/acre	7,000 sf	50%	30 feet
Multi-Family Low	531	Detached homes and attached homes	5-14 units/acre	6,000 sf	50%	30 feet
Multi-Family Medium	171	Attached homes	14-21 units/acre	6,000 sf	60%	30 feet
<i>Multi-Family High</i>	<i>7</i>	<i>Attached homes</i>	<i>21-40 units/acre</i>	<i>6,000 sf</i>	<i>60%</i>	<i>48 feet</i>
Commercial	454	Retail, office, services	N/A	20,000 sf	50%	30 feet
Non-Retail Commercial	36	Offices, services	N/A	6,000 sf	50%	35 feet
General Commercial	24	Retail, office, services	N/A	10,000 sf	50%	35 feet
Mixed Use	50	<i>Attach homes mixed with</i> retail, office and services.	<i>8-18 units/acre Opportunity Sites 25-40 units/acre</i>	<i>(Commercial) 10,000 sf (Residential) 6,000 sf</i>	60%	<i>Com. 35 feet Res. 48 feet</i>
Industrial	1,112	Warehouse, offices, manufacturing	N/A	20,000 sf	50%	50 feet
Office Industrial	26	Offices R& D	N/A	20,000 sf	50%	50 feet
Campus Industrial	18	Wholesale High-tech, R & D	N/A	20 acres	20%	35 feet
Public Facilities	253	Publicly owned	N/A	NA	50%	35 feet

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING GENERAL PLAN AMENDMENT APPLICATION GPA-04-07: CITY OF MORGAN HILL DOWNTOWN PLAN, AMENDING THE LAND USE DESIGNATION ON THREE SEPARATE AREAS TOTALING 25 ACRES WITHIN THE DOWNTOWN AREA AS DEFINED IN THE DOWNTOWN PLAN.

WHEREAS, such request was considered by the City Council at their regular meeting of January 19, 2005, at which time the City Council approved application GPA-04-07: City of Morgan Hill Downtown Plan; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. The General Plan Amendment is consistent with the provisions of the General Plan and Downtown Plan.

SECTION 2. An environmental initial study has been prepared for this application, and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A mitigated Negative Declaration will be filed.

SECTION 3. The City Council hereby approves the following General Plan Land Use Amendments:

1. Amend the land use designation as shown in Exhibit 1, from Commercial to Mixed Use for a 11.13 acre area located on the east side of Monterey Road, south of East Central Avenue and north of East Main Avenue on the west side of the Union Pacific railroad. (APNs 726-23-002 thru 015)
2. Amend the land use designation as shown in Exhibit 2, from Industrial to Multi-Family High for a 6.49 acre area located on the southwest corner of the intersection of East Main Avenue and Butterfield Boulevard. (APNs 726-15-001, 003 and 726-15-068)

3. Amend the land use designation as shown in Exhibit 3, from Commercial to Mixed Use for a 7.32 acre area located on the southwest corner of the intersection of East Dunne Avenue and Butterfield Boulevard. (APNs 726-04-001, 726-04-003, 726-04-006 thru 008 and 726-04-011 & 012).

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 19th Day of January, 2005 by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

☪ CERTIFICATION ☪

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on January 19, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

ORDINANCE NO. , NEW SERIES

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF MORGAN HILL APPROVING AN AMENDMENT TO
THE MORGAN HILL MUNICIPAL CODE
INCORPORATING CHAPTER 18.17 ESTABLISHING AN
R-4 HIGH DENSITY RESIDENTIAL DISTRICT.**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY
ORDAINS AS FOLLOWS:**

SECTION 1. The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.

SECTION 3. INCORPORATING ZONING TEXT CHANGES BY REFERENCE. There hereby is attached hereto and made a part of this ordinance, a text amendment to the Planning and Land Use Code, Title 18 of the Morgan Hill Municipal Code, entitled "Chapter 18.17, R-4 HIGH DENSITY RESIDENTIAL DISTRICT" as contained in the attached Exhibit "A."

SECTION 4. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 5. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 19th Day of January 2005, and was finally adopted at a regular meeting of said Council on the nd Day of February 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the nd Day of February 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

Exhibit A

Chapter 18.17

R-4 HIGH-DENSITY RESIDENTIAL DISTRICT

Sections:

- 18.17.010 Purpose of district.**
- 18.17.020 Permitted uses.**
- 18.17.030 Accessory uses.**
- 18.17.040 Conditional uses.**
- 18.17.050 Site development standards.**
- 18.17.060 Additional required conditions.**
- 18.17.070 Trash containers.**

18.17.010 Purpose of district.

The R-4 district is intended to stabilize and protect the residential character of neighborhoods, and to promote a suitable environment for family and adult communities in a higher-density environment than other residential zoning categories would allow.

18.17.020 Permitted uses.

The following uses shall be permitted in the R-4 district:

- A. One single-family detached dwelling per lot of record established prior to July 5, 1990;
- B. Multi-family, duplex or single-family attached dwellings;
- C. Special residential care facilities;
- D. Manufactured homes;
- E. Small and large family day care homes.

18.17.030 Accessory uses.

The following are the accessory uses permitted in the R-4 district:

- A. Signs, complying with the applicable regulations set forth in Chapter 18.76 of this title;
- B. Private garages and parking areas;
- C. Home occupations;
- D. Other accessory uses and accessory buildings customarily appurtenant to a permitted use.

18.17.040 Conditional uses.

The following uses may be conditionally allowed in the R-4 district, subject to issuance of a conditional use permit in accordance with Chapter 18.54 of this title:

- A. Rooming houses and boardinghouses;
- B. Social halls, lodges, fraternal organizations and clubs, and community clubs, except those operated for profit;
- C. Licensed nursing homes and convalescent hospitals;
- D. Public and quasi-public buildings and uses of a recreational, educational, religious, cultural or public-service type, but not including corporation yards, storage or repair yards, and warehouses;
- E. Hospitals and other medical facilities, provided that such uses are located adjacent to an arterial road, as designated on the General Plan land use map;
- F. Nursery schools;
- G. Parking lots providing that such lots are adjacent to commercial or mixed use zoning districts.

18.17.050 Site development standards.

The following site development standards shall apply in the R-4 district:

- A. Minimum lot area:
 - 1. Six thousand square feet.
 - 2. Six thousand five hundred square feet, corner lots;
- B. Minimum site area per dwelling unit, one thousand one hundred square feet.
- C. Minimum lot width, forty feet;
- D. Minimum lot depth, seventy-five feet;
- E. Maximum building coverage, sixty percent;
- F. Minimum setbacks:
 - 1. Front, fifteen feet,
 - 2. Rear, fifteen feet,
 - 3. Side, five feet;
- G. Maximum height three stories; or 48 ft. with a minimum of 10 ft. of height devoted to a roof element on a three story structure.
- H. Side Street Side Yard. A side yard along the side street lot line of a corner lot shall have a width of not less than fifteen feet or one-half the required depth of the front yard, whichever is greater;
- I. Cul-de-sac lot width, minimum of forty feet as measured along the front property line;

J. All residential development fronting on an arterial street as defined by the general plan, shall provide a minimum front yard setback of thirty feet, or all residential development with rear or side yard areas adjacent to an arterial street shall provide a minimum fence/wall setback of fifteen feet with an average of twenty feet from the face of the curb.

18.17.060 Additional required conditions.

A. Site and architectural approval is required of all dwellings permitted, except a single-family home on a lot less than 10,000 sq. ft., a duplex on one lot or a single unit addition to an existing structure.

B. Site plan and architectural approval are required of all conditional uses.

C. Architectural and site plan approval shall be required of all uses situated on sensitive sites, as defined in Chapter 18.74 of this title.

D. Residential development control system approval is required for all residential development in accordance with Chapter 18.78 of this title.

E. All manufactured homes are subject to site and architectural plan approval by the community development director.

F. No building shall be constructed within eighty feet of a ridgeline, nor within fifty feet of a perennial or intermittent stream. All proposed structures shall be constructed outside of the one-hundred-year floodplain unless such development is consistent with the limitations contained in Chapter 18.42 of this title.

G. Residential dwellings adjacent to the freeway shall provide a minimum setback of sixty feet. Accessory uses and buildings, excluding habitable living space, may be located within the sixty foot setback area.

18.17.070 Trash containers.

Trash receptacles and enclosures as described in Section 18.74.505 shall be required from and after the effective date of the ordinance codified in this section.

ORDINANCE NO. , NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE ZONING DESIGNATION ON THREE SEPARATE AREAS TOTALING 18.2 ACRES WITHIN THE DOWNTOWN AREA AS DEFINED IN THE DOWNTOWN PLAN.

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. The zone change is required to serve the public convenience, necessity, and general welfare as provided in Section 18.62.050 of the Municipal Code.

SECTION 3. An environmental initial study has been prepared for this application, and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A mitigated Negative Declaration will be filed.

SECTION 4. The Zoning Map of the City of Morgan Hill, which is referenced under Title 18, Chapter 18.06 of the Morgan Hill Municipal Code, is hereby amended as further defined as follows:

1. Three parcels totaling 6.51 acres located on the south west quadrant of the intersection of East Main Avenue and Butterfield Boulevard. as shown in the attached Exhibit “5” shall be rezoned from Light Industrial ML, to Multi-Family High R-4. (APN 726-15-001, 003 & 073)
2. Fifteen parcels totaling 11.13 acres located between the south side of East Central Ave. and north of East Main Avenue, between Monterey Road. and the railroad tracks. These parcels shall be rezoned from General Commercial CG, to Central Commercial Residential CC-R as shown in the attached Exhibit “6”. (APNs 726-23-001 thru 015)
3. Three parcels totaling .56 acres located between East First Street and East Second Street approximately 140 feet east of Monterey Road. These parcels shall be rezoned from Central Commercial Residential CC-R to PUD as shown in the attached Exhibit “7”. (APNs 726-14-025, 026 and 031). Future development of the PUD shall be a mixed use development consisting of a mix of residential and commercial uses. The residential density shall be 25-40 dwelling units per acre. Development of the PUD shall occur in a manner which recognizes its prominent location within the downtown. Prior to any development within the PUD, a precise development plan shall be approved by the City consistent with the provision of Municipal Code Chapter 18.30

PUD Planned Unit Development. Development within this PUD shall occur in a manner which complies with the spirit, guidelines and standards contained with Morgan Hill Downtown Plan as amended.

SECTION 5. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 6. Effective Date; Publication. This Ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 19th Day of January 2005, and was finally adopted at a regular meeting of said Council on the nd Day of February 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ **CERTIFICATE OF THE CITY CLERK** ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the nd Day of February 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:_____

IRMA TORREZ, City Clerk

ORDINANCE NO. , NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE ZONING ON SEVEN PARCELS FROM CENTRAL COMMERCIAL RESIDENTIAL CC-R, TO PLANNED UNIT DEVELOPMENT, BRINGING THE PARCELS INTO CONFORMANCE WITH THE DOWNTOWN PLAN AND THE GENERAL PLAN. (APN 726-13-032, 033, 034, 041-044)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The proposed zoning amendment is consistent with the Zoning Ordinance, Downtown Plan and the General Plan.

SECTION 2. The zone change is required to serve the public convenience, necessity, and general welfare as provided in Section 18.62.050 of the Municipal Code.

SECTION 3. An environmental initial study has been prepared for this application, and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A mitigated Negative Declaration will be filed.

SECTION 4. The Zoning Map of the City of Morgan Hill, which is referenced under Title 18, Chapter 18.06 of the Morgan Hill Municipal Code, is hereby amended as shown in the attached Exhibit “4”, and as further defined in the attached Exhibit “A” which by this reference incorporated herein.

SECTION 5. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 6. Effective Date; Publication. This Ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 19th Day of January 2005, and was finally adopted at a regular meeting of said Council on the nd Day of February 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the nd Day of February 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:_____

IRMA TORREZ, City Clerk

EXHIBIT A

Planned Unit Development (PUD) zoning: SUNSWEET PROPERTY

Area:

This area is shown on the attached map and includes Assessor Parcel Numbers 726-13-032, 033, 034, 041, 042, 043, and 044. This area has been defined as the “Sunsweet Property”.

Objective:

The Sunsweet property is a key site for the implementation of the Downtown Plan. Development of this PUD shall occur in a manner which recognizes its prominent location. Prior to any development within the PUD, a precise development plan shall be approved by the City consistent with the provisions of Municipal Code Chapter 18.30 PUD Planned Unit Development. Development within this PUD shall also occur in a manner which complies with the spirit, guidelines and standards contained with Morgan Hill Downtown Plan as amended.

Permitted uses for parcels within the PUD fronting on Third Street.

The following uses shall be permitted in the PUD for parcels fronting on Third St.:

- A. Retail Stores;
- B. Restaurants;
- C. Financial Services;
- D. Nightclubs, theaters and bars;
- E. Commercial indoor recreation uses 3,000 sq. ft. or less in area.

Conditional uses for parcels fronting on Third St.

The following uses may be conditionally allowed in the PUD on parcels fronting on Third St., subject to issuance of a conditional use permit in accordance with Chapter 18.54 of this title and finding of consistency with the Downtown plan:

- A. Commercial office uses in first floor locations;

Permitted uses for second story or above locations for parcels fronting on Third Street.

The following uses in the PUD district shall be permitted only in second story (or above) locations for parcels fronting on Third St.:

- A. Single-family attached, duplex and multifamily dwellings;
- B. Personal Services;
- C. Professional Offices;
- D. Small Family Day Care.

Conditional uses for second story or above location for parcels fronting on Third Street:

The following uses in the CC-R district shall be conditional in second story (or above) locations for parcels fronting on Third St:

- A. Medical Offices
- B. Schools

Permitted uses for parcels not fronting on Third Street:

The following uses shall be permitted in the CC-R district for parcels not fronting Third St.:

- A. Multifamily dwellings

Development Density: Maximum density of 25-40 dwelling units per acre.

Development Design Standards:

Height:

- A. Development facing onto Third Street shall be a minimum of two stories in height and a maximum of 48 ft. If a third story is provided along this frontage it shall be stepped back a distance of at least fifteen feet. Any third story space shall be integrated into the roof of the structure.
- B. Development facing onto to Depot Street shall be a maximum of two stories in height (30 ft.).
- C. Development facing onto Fourth Street shall be a maximum of two stories in height (30 ft.)

Setbacks:

- A. Development facing onto Third Street shall be at a zero front setback.
- B. Development facing onto to Depot Street shall be setback a minimum of 15 ft.
- C. Development facing onto Fourth Street shall be setback a minimum of 15 ft. and shall be compatible with development on the south side of Fourth Street.

Entries:

- A. Development facing onto Depot Street shall have entrances oriented to the street.
- B. Development facing onto Fourth Street shall have entrances oriented to the street.
- C. Development facing onto Third Street shall provide a continuous façade of connecting storefronts and entries that each has a unique and varied architectural style and details.

General Design Standards:

The following standards shall apply throughout the PUD.

- A. Blank walls greater than ten ft. in length shall be avoided.
- B. Bay windows and balconies may encroach into the public right-of-way up to three feet along twenty five percent of the street frontage (25%).
- C. Entries shall be distinctive and well defined with elements such as attractive doorways and sidelights, awnings, carriage lights, planters with flowers, and appropriate signage.
- D. Second story or above shall be designed with a distinctive character and design elements such as bay windows, projecting balconies with landscaping and French doors and awnings over windows.
- E. Window proportions on upper levels should be generally smaller than ground floor windows and vertical in proportion.
- F. Window types and proportions shall be complementary to the architecture and design of the façade.
- G. Operable windows within restaurant facades shall be highly encouraged.
- H. A transparent store front façade shall be provided along the entire first floor development along Third St.
- I. Ground floor windows should generally reflect traditional store front window with proportions that are horizontal or approximately square.
- J. Tinted or reflective window glass is prohibited.
- K. All building designs shall be consistent with the design guidelines as contained within the Downtown Plan.

Parking and Circulation Requirements:

The following shall be provided within the PUD.

- A. A parking lot for public use shall be provided on the western portion of the PUD behind parcels fronting on Monterey Road.
- B. Pedestrian access shall be provided between parking lot areas and Monterey Rd. and Third St.
- C. Major parking lot entrances shall be oriented to Depot Street.
- D. Minor parking lot entrances may be oriented to Fourth Street.
- E. No parking lot entrances shall be allowed on Third Street except to allow for access to mid-block public parking.
- F. Pedestrian access shall be provided between parking lot areas and Monterey Rd. and Third St.
- G. Parking for residential development within the PUD shall be consistent with Chapter 18.50 of the Municipal Code.
- H. Parking required for commercial development shall be consistent with Chapter 18.50 of the Municipal Code.
- I. Vehicular and pedestrian easements shall be established between all parcels within the PUD.

ORDINANCE NO. , NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING TEXT AMENDMENTS TO THE MORGAN HILL MUNICIPAL CODE CHAPTER 18.50 OFF-STREET PARKING AND PAVING STANDARDS.

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.

SECTION 3. The City Council hereby approves the following amendments to Chapter 18.50:

A. Section 18.50.025 shall be amended to read as follows:

18.50.025 Parking in CC-R, central commercial residential zone

For lots of record in the CC-R, central commercial-residential zoning district, there shall be no requirement for provision of on-site parking for commercial uses. On-site parking for residential to commercial conversion will be prohibited unless it is provided at the rear of the parcel and can be accessed from Main Avenue or Dept Street.

B. The following statement shall be added to each of the Guest Parking provisions found under section 18.50.020 Number of Spaces—Schedule:

18.50.020 Number of Spaces—Schedule

The provision of guest parking is not required for existing or proposed residential development within the CC-R zoning district.

SECTION 4. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 5. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 19th Day of January 2005, and was finally adopted at a regular meeting of said Council on the nd Day of February 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

⌘ CERTIFICATE OF THE CITY CLERK ⌘

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the nd Day of February 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: *January 19, 2005*

**GENERAL PLAN AND ZONING APPLICATIONS GPA 04-04/ZA 04-10:
Monterey Rd.-Morgan Hill Medical**

RECOMMENDED ACTION(S):

- Open/close Public Hearing
- Adopt Resolution denying General Plan Amendment request.
- Adopt Resolution denying Zoning Amendment request

EXECUTIVE SUMMARY: A request to amend the General Plan land use designation from Non-Retail Commercial to Commercial and zoning designation from Commercial Office, CO, to General Commercial, CG, on a 2.93 acre parcel located on the west side of Monterey Rd., 30 ft. north of Cosmo Ave.

As part of the 2001 General Plan update, the project site was designated as "Non-Retail Commercial". The stated intent of the Non Retail Commercial designation is "...to focus service and office uses away from major intersections where the commercial designation encourages higher traffic generating retail uses." Goal 9 of the Land Use Element reads as follows: Goal 9. Sufficient and concentrated commercial uses. To further define Goal 9, the General Plan lists the following policies:

- 9b. Ensure the viability of downtown and other recognized shopping areas, and discourage isolated and sprawling commercial activities along major roads.***
- 9c. Encourage retail sales use at major intersections-as the focus of clustered commercial development.***

The proposed general plan amendment request cannot be supported since the request is inconsistent with the general plan policies listed under Goal 9 of the General Plan. The location of the applicant's property away from the major intersections of Dunne Ave. & Monterey Rd. and Tennant Ave. & Monterey Rd., does not conform with the General Plan's objective to keeping the commercial retail areas compact at the major intersections and prevent commercial sprawl along the major thoroughfares. The current May 2004 land use inventory also does not support the applicant's request to change the Non-Retail Commercial designation to Commercial. The inventory of vacant Non Retail Commercial property is relatively low (16 acres) and the existing inventory of vacant commercially designated property is currently adequate with 206 vacant acres within the City limits.

The Planning Commission considered these applications at their December 14, meeting. The Commission voted 3-3 resulting in a non action vote. Three of Commissioners concurred that the requests are in conflict with the General Plan goals and policies. Three of the Commissioners believed that other areas in town could be designated as non-retail commercial and that commercial development at this location could serve surrounding residential development. A copy of the December 14 staff report and minutes are attached for the Council's reference. The Commission voted 5-1 to approve the mitigated negative declaration for the project. Should the Council wish to approve the requests, an ordinance and resolution will be available the night of the meeting for Council consideration.

FISCAL IMPACT: *No budget adjustment required.*

R:\PLANNING\WP51\GPA\2004\GPA04-04 Mo.Rd.-M.H.Med.Ctr\GPA0404.m1c.doc

Agenda Item # 21

Prepared By: _____

Senior Planner

Approved By: _____

Planning Manager

Submitted By: _____

City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL DENYING GENERAL PLAN AMENDMENT APPLICATION GPA-04-04: MONTEREY – MORGAN HILL MEDICAL REQUESTING TO AMEND THE LAND USE DESIGNATION FROM NON-RETAIL COMMERCIAL TO COMMERCIAL FOR A 2.93 ACRE PARCEL, LOCATED ON THE WEST SIDE OF MONTEREY ROAD 300 FEET NORTH OF THE COSMO AVENUE/MONTEREY ROAD INTERSECTION (APN 767-17-046)

WHEREAS, such request was considered by the City Council at their regular meeting of January 19, 2004, at which time the City Council denied General Plan Amendment application, GPA-04-04: Monterey – Morgan Hill Medical; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. The General Plan Amendment request has been found to be inconsistent with the policies and provisions of the General Plan Land Use Goal 9: Sufficient and concentrated commercial uses.

SECTION 2. The General Plan amendment request is denied due to its inconsistency with General Plan policy 9b based on the finding that the requested commercial designation would compromise the viability of the downtown and other recognized shopping areas, and would allow for isolated and sprawling commercial development along Monterey Road.

SECTION 3. The Planning Commission recommends denial of the General Plan amendment request due to its inconsistency with General Plan policy 9c based on the finding that the location of the proposed commercial designation between Dunne Ave. and Tennant Ave. would not encourage retail sales use at major intersections and would not promote the clustering of commercial development.

SECTION 4. The City Council also finds that the current 16 acre inventory of vacant Non-Retail commercial designated land is minimal and should be maintained. The current 209 acre inventory of vacant commercial land is adequate to allow for commercial growth. Evidence has not been provided showing the need for additional commercial land at this time.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 19th Day of January, 2005 by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

🦉 CERTIFICATION 🦉

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on January 19, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL DENYING A REQUEST TO AMEND THE ZONING DESIGNATION FROM CO, COMMERCIAL OFFICE TO CG, GENERAL COMMERCIAL FOR A 2.93-ACRE PARCEL LOCATED ON THE WEST SIDE OF MONTEREY ROAD 300 FEET NORTH OF THE COSMO AVENUE MONTEREY ROAD INTERSECTION (APN 767-17-046)

WHEREAS, such request was considered by the City Council at their regular meeting of January 19, 2004, at which time the City Council denied zoning amendment application, ZA-04-10: Monterey – Morgan Hill Medical; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. The proposed zoning amendment is inconsistent with the General Plan land use Goal 9 and General Plan policies 9b & 9c.

SECTION 2. A sufficient inventory of vacant land within the City limits is currently available to provide for the public's convenience, necessity and general welfare as stated in Section 18.62.050 of the Municipal Code.

SECTION 3. The City Council hereby denies the request to amend the zoning designation from CO, Commercial office to General Commercial, CG.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 19th Day of January, 2005 by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

☞ CERTIFICATION ☞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on January 19, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: January 19, 2005

General Plan Amendment GPA-04-08/ Zoning Amendment, ZA-04-20: Tennant-Huang

RECOMMENDED ACTION(S):

1. Open/close Public Hearing
2. Approve Mitigated Negative Declaration
3. Adopt General Plan Amendment Resolution
4. Waive the First and Second Reading of Zoning Amendment Ordinance
5. Introduce Zoning Amendment Ordinance

EXECUTIVE SUMMARY: The applicant proposes to amend the General Plan from Industrial to Non-Retail Commercial and amend the zoning from Light Industrial to Administrative Office in order to construct a medical/dental office building on a 1.45-acre vacant parcel (APN 817-29-027) located at the northwest corner of Tennant Avenue and Caputo Drive. In addition, the Commission recommends amending the General Plan from Industrial to Non-Retail Commercial and amend the zoning from Light Industrial to Administrative Office for a 1.22-acre parcel with an existing 20,049 sq. ft. building located at the northeast corner of Tennant Avenue and Caputo Drive (APN 817-29-029).

The applicant is proposing to construct a 16,000 sq. ft. medical office building at the northwest corner of Tennant Avenue and Caputo Drive. Amending the General Plan to Non-Retail Commercial would be consistent with the following General Plan policies from Goal 9 of the Community Development Element: Policy 9a which encourages a variety of commercial and office development to meet the needs of city residents; policy 9b which ensures the viability of downtown and other recognized shopping areas, and discourages isolated and sprawling commercial activities along major roads; and policy 9c which encourages retail sales use at major intersections-as the focus of clustered commercial development. Amending the General Plan designation from Industrial to Non-Retail Commercial for parcel 817-29-029, the parcel located on the northeast corner of Tennant and Caputo across the street from the project site is consistent with the existing land use and policies of the General Plan.

The applicant proposes to amend the zoning to CO Administrative Office. The purpose of the CO Administrative Office district is to provide an area wherein professional, general commercial offices and limited personal services may develop in close relationship with each other outside of other commercial districts. The CO district does not encourage retail sales. Medical facilities are a permitted use in the CO district. Although the CO district will not be the final zoning district for the Non-Retail Commercial Land Use Designation, the CO district has uses more in keeping with the intent of the Non-Retail Commercial designation than other zoning designations. The owner of the northeast parcel (APN 817-29-029) is opposed to the General Plan and zoning change. Attached, for the Council's reference, is a letter from the owner opposing the General Plan and zoning amendments. The property owner is requesting the zoning be amended to CS, Service Commercial.

The Planning Commission reviewed the applicant's request at the December 14, 2004 meeting, and recommended approval of the General Plan and Zoning Amendment applications by a vote of 6-0. Copies of the December staff report and draft minutes are attached for the Council's reference. Staff recommends approval of the Mitigated Negative Declaration, Resolution, and Ordinance as attached to this report.

FISCAL IMPACT: None. Filing fees were paid to the City to cover the cost of processing the applications. R:\PLANNING\WP51\GPA\2004\GPA0408 Tennant-Huang\GPA0408m1c.doc

Agenda Item # 22

Prepared By:

Associate Planner

Approved By:

Planning Manager

Submitted By:

City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING GPA-04-08: TENNANT-HUANG, CHANGING THE GENERAL PLAN LAND USE DESIGNATION FROM INDUSTRIAL TO NON-RETAIL COMMERCIAL FOR TWO PARCELS TOTALING 2.67 ACRES LOCATED AT THE NORTHWEST AND NORTHEAST CORNER OF TENNANT AVENUE AND CAPUTO DRIVE. (APNS 817-29-027 AND 029)

WHEREAS, such request was considered by the City Council at their regular meeting of January 19, 2005, at which time the City Council approved GPA-04-08: Tennant-Huang; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. The General Plan Amendment is consistent with the General Plan.

SECTION 2. An environmental initial study has been prepared for this application, and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A mitigated Negative Declaration will be filed.

SECTION 3. The General Plan Amendment conforms with Goal 9 of the Community Development element of the General Plan. The amendment would provide sufficient and concentrate commercial uses along Tennant Avenue as described in the policy statements of Goal 9 of the Community Development element.

SECTION 4. Future development of the General Plan Amendment area shall comply with the mitigation measures of the approved mitigated Negative Declaration.

SECTION 5. The City Council hereby approves a General Plan Amendment to change the land use designation from Industrial to Non-Retail Commercial for two parcels totaling 2.67 acres in size, as shown on attached Exhibit 'A'.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 19th Day of January, 2005 by the following vote.

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

🏛 CERTIFICATION 🏛

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on January 19, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

ORDINANCE NO. , NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE ZONING DESIGNATION FROM ML LIGHT INDUSTRIAL TO CO ADMINISTRATIVE OFFICE FOR TWO PARCELS TALLING 2.67 ACRES LOCATED AT THE NORTHWEST AND NORTHEAST CORNER OF TENNANT AVENUE AND CAPUTO DRIVE. (APNS 817-29-027 AND 029)

- SECTION 1.** The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.
- SECTION 2.** The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.
- SECTION 3.** An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A mitigated Negative Declaration will be filed.
- SECTION 4.** The City Council hereby approves an amendment to the zoning designation from ML, Light Industrial to CO, Administrative Office for two parcels totaling 2.67-acres as shown on the attached zoning plat (Exhibit A).
- SECTION 5.** Future development of the zoning amendment area shall comply with the mitigation measures of the approved mitigated Negative Declaration.
- SECTION 6.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.
- SECTION 7.** Effective Date; Publication. This Ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 19th Day of January 2005, and was finally adopted at a regular meeting of said Council on the XX Day of February 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the **XX** Day of February 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: *January 19, 2005*

COUNCIL REVIEW OF DOWNTOWN TRAFFIC CALMING OPTIONS

RECOMMENDED ACTION(S): Staff recommends proceeding with Option A attached; we would request Council direction regarding the A4a or A4b option.

EXECUTIVE SUMMARY: On October 13, 2004, City Council conducted a workshop regarding the traffic impact analysis for the implementation of the downtown plan. Attached as Exhibit "A" is the staff report for the workshop and attached as Exhibit "B" is the presentation from Fehr & Peers regarding the traffic analysis and a presentation of various traffic calming options that could slow traffic and/or present a safer pedestrian environment in our downtown.

At our October 13, 2004 workshop, representatives of both Santa Clara County Fire and Morgan Hill Unified School District presented reasons they did not support neither reducing the number of lanes in downtown nor installing speed bumps or other devices that would slow their vehicles.

Staff has conducted additional speed studies and traffic counts in our downtown area and that information is presented as Exhibits "C" and "D". Staff additionally conducted a workshop to get input from the Morgan Hill Downtown Association regarding the problems and the perceived solutions and the notes from that workshop are presented as Exhibit "E". There were certain requests of the Downtown Association that required staff follow-up, and that follow-up is presented as Exhibit "F".

Council also asked at the workshop if it would be possible to relocate the downtown VTA bus route from Monterey to Depot with the thought that it could be included in the work to improve Depot with the grant the City recently received. Staff has had preliminary discussion with VTA who said they are open to the idea. As we work on the Depot Street Improvement project, we will explore this option further and report back to City Council.

The conclusion of staff regarding this issue is that, 1) there is not a serious speeding problem in our downtown, but that 2) there is a problem getting vehicles to stop for pedestrians crossing Monterey at our non-traffic signal controlled intersections, especially during the peak volume times. Attached is a list of downtown traffic calming options staff would propose in an effort to both reduce the speed of downtown traffic as well as increase the safety for pedestrians crossing our non-signal controlled intersections. Staff would recommend moving forward with the Option "A" list of improvements as soon as possible with the Option "B" enhanced improvements to be evaluated at least six months after all Option "A" improvements are completed. Staff does not recommend any Option "C" improvements at this time.

FISCAL IMPACT: Funding of \$125,000 has been set aside for this work in the current year RDA budget.

Attachments: Exhibit A - page ____
 Exhibit B - page ____
 Exhibit C - page ____

Exhibit D - page ____
Exhibit E - page ____
Exhibit F - page ____

Agenda Item # 23

Prepared By:

Public Works Director

Submitted By:

City Manager

DOWNTOWN TRAFFIC CALMING OPTIONS

A) Funding Limit of \$125,000 (existing budget)

1.	Dunne/Monterey Intersection narrowing (fronting Community Center)	\$ 75,000
2.	12' Lane reduction striping to 10.5' lanes	\$ 15,000
3.	High visibility crosswalks at 1 st and 3 rd Streets	\$ 10,000
4.	a) Two "mountable" and removable speed cushions (1 st and 3 rd), or b) Trees in median immediately north and south of 4 th Street	<u>\$ 25,000</u>
TOTAL		\$ 125,000

B) Enhanced Budget

1.	Extend left turn lane for s/b Monterey to w/b Main	\$ 90,000
2.	Imbedded pedestrian pavement lights at 1 st and 3 rd Streets	\$ 100,000
3.	Downtown entry statements (Main s/b and Dunne n/b)	\$ 150,000
4.	Two radar speed notification signs	<u>\$ 20,000</u>
TOTAL		\$ 360,000

C) Other Options Discussed, Not Recommended by Staff

*1.	Temporary reduction of travel lanes to single lane (Asphalt/Concrete dikes and planters)	\$ 260,000
*2.	Raised intersections (1 st – 5 th Streets) (5 at \$70,000 each)	\$ 350,000
3.	Remove existing 22' wide medians, replace with 12' median and widen sidewalks on each side of Monterey by 5 feet (Main to Dunne) (5 at \$760,000 each)	<u>\$3,800,000</u>
TOTAL		\$4,410,000

*note: not supported by County Fire



CITY COUNCIL STAFF REPORT

MEETING DATE: *January 19, 2005*

INSURANCE REQUIREMENTS FOR IMPROVEMENT AND SUBDIVISION IMPROVEMENT AGREEMENTS

Agenda Item # 24

Prepared By:

Finance Director

Submitted By:

City Manager

RECOMMENDED ACTIONS:

1. Approve policy changes concerning insurance requirements for improvement and subdivision improvement agreements.
2. Direct staff to include policy requirements in new improvement and subdivision improvement agreements, subject to City Attorney review and approval.

EXECUTIVE SUMMARY: On December 15, the City Council discussed the extension of time for certain Measure P building allotments for South County Housing/Builders McLaughlin-Jones property. As part of that discussion, the developer expressed concerns that staff was requiring extension of completed operations liability insurance to the City when such coverage was not part of the insurance coverage previously provided to and accepted by staff on the same project. Further, the developer indicated that the insurance the City was requiring was not available to them in the marketplace according to their insurance advisers. The City Council approved the extension and instructed staff to accept the insurance offered by the developer for this project in order to allow them to commence construction because the same insurance had been previously accepted by City staff for this development and because the City is partnering with a non-profit, low income housing organization on this project. In addition, staff indicated that staff would bring an insurance requirements policy to the City Council at tonight's meeting.

Staff has therefore reviewed all 21 improvement and subdivision improvement agreements, approved over the past year or pending, to see if each met current insurance requirements. Attached is a summary showing that the great majority did so. Staff has concluded that, while meeting the City's insurance requirements has become more difficult and more expensive, especially in the area of residential construction, the City's requirements are reasonable and in the best interests of the City. Staff proposes that, based upon a review of insurance provided to the City over the past year, based upon conversations with insurance adviser ABAG PLAN, and based upon staff's risk assessment, with input from the City Attorney, the City require the following:

- a) Extension of ongoing & completed operations coverage to City (current practice)
- b) Liability coverage of at least \$2 million per occurrence (up from \$1 million)
- c) Aggregate liability coverage of at least \$4 million (up from \$1 million)
- d) Occurrence based insurance, not claims made insurance (current practice)
- e) Commitment to extend completed operations coverage for 3 years (new)
- f) Exception to the extension of completed operations coverage to the City where the City partners with a non-profit, low income housing organization on a project (new)

FISCAL IMPACT: The impact of potential related claims would be minimized.



Memorandum

Finance Department

Date: January 19, 2005

To: Ed Tewes, City Manager

From: Jack Dilles, Finance Director

Subject: **INSURANCE REQUIREMENTS FOR IMPROVEMENT & SUBDIVISION IMPROVEMENT AGREEMENTS**

EXECUTIVE SUMMARY: On December 15, the City Council discussed the extension of time for certain Measure P building allotments for the South County Housing/Builders McLaughlin-Jones property. As part of that discussion, the developer expressed concerns that staff was requiring extension of completed operations liability insurance by the developer to the City when such coverage was not part of the insurance coverage previously provided to and accepted by staff on the same project. Further, the developer indicated that the insurance the City was requiring was not available to them in the marketplace according to their insurance advisers. The City Council approved the extension and instructed staff to accept the insurance offered by the developer for this project in order to allow them to commence construction because the same insurance had been previously accepted by City staff for this development and because the City is partnering with a non-profit, low income housing organization on this project. In addition, staff indicated that staff would bring a subdivision improvement agreement insurance requirements policy to the City Council at the January 19 City Council meeting.

Staff therefore reviewed all 21 improvement and subdivision improvement agreements, approved over the past year or pending, to see if each met current insurance requirements. Attached is a summary which shows that the great majority did meet all requirements. The exceptions are: the insurance for one agreement did not have a primary non-contributory endorsement and five did not or do not have evidence of extension of completed operations coverage to the City. Of the five agreements without evidence or completed operations coverage, ones with MarRad Group and Ho were overlooked, one with South County Builders was described above, another with South County Builders for the Viale project is pending, and one with Glenrock Builders was approved, without immediate evidence of completed operations coverage but with the requirement that such insurance be provided by the purchaser of the project prior to the completion of the offsite improvements. Staff has since learned that South County

Builders could obtain the completed operations endorsement at a cost of approximately \$20,000 for the Viale project. Therefore, since the insurance appears to be available in the marketplace, there is no practical reason why developers cannot, at this time, obtain the extension of completed operations coverage or other coverages required by the City.

A related issue is that the standard City agreements do not explicitly call out for certain requirements that staff has informed developers they must provide in order to have their agreements approved and processed. One such requirement that staff normally enforces is that the City must be added as an additional insured on the developer's insurance policy for both ongoing operations and completed operations liability coverage. At one time, these coverages came together as a package, but as the insurance industry has changed and reacted to new business conditions, it has become more difficult and more expensive to obtain the completed operations coverage.

The ongoing operations endorsement provides coverage in case someone sues the City for injury suffered during the period that the improvements are being constructed. The completed operations endorsement protects the City from a claim from someone who is injured, as the result of a construction defect, after the improvements are completed. Examples include someone tripping over a cracked sidewalk or the rupture of a sewer line.

Another requirement that staff enforces, but which is not explicitly called out for, is the requirement that the developer's policy be an occurrence based policy rather than a claims made policy. This did become an issue with one developer within the past year, but that developer eventually provided occurrence based insurance.

Another requirement that staff enforces, but which is not explicitly called out for, relates to how long the developer must provide completed operations coverage to the City. There is no explicit amount of time that a policy must be in place, in either contract terms or practice. Staff normally just makes sure that completed operations coverage is in place at the time the agreement is executed. However, the amount of time that the completed operations coverage is in place does matter. Staff has talked with the Risk Manager at ABAG PLAN, the insurance pool in which the City is a member, and he has indicated that we should try to get 10 years of coverage, but recommends that we get at least 3 years of coverage. The length of this coverage matters because most construction defects would show up in the first three years following construction, and if the defect began to show itself after the end of the policy period, it is possible that the policy would not cover any liability associated with this loss. While the policy periods for most of the agreements on the attached list were for only a one year period, the City could require that the developer agree to maintain the completed operations coverage for at least 3 years. While there is no guarantee that a developer would maintain the

coverage or that the developer would still be in business in 3 years, this would better protect the City.

Another issue has to do with the amount of coverage. All developers have provided the City with at least \$1 million in liability coverage per occurrence and with at least \$1 million aggregate coverage in compliance with the standard agreement. Some have provided up to \$2 million per occurrence and up to \$3 million in aggregate coverage. ABAG PLAN recommends that the City require coverage of at least \$2 million per occurrence and \$4 million in the aggregate.

Staff proposes that, based upon the review of insurance provided to the City over the past year, based upon conversations with ABAG PLAN, and based upon staff's review of the risks involved, after consultation with the City Attorney, that the City continue to require the extension of completed operations coverage to the City, require that the developer commit to the continuation of such completed operations coverage for a three year period, require at least \$2 million per occurrence coverage, and require at least \$4 million of aggregate liability coverage. Staff has concluded that, while meeting the City's insurance requirements has become more difficult and more expensive, especially in the area of residential construction, the City's requirements are reasonable and in the best interests of the City.

In summary, staff recommends the following:

1. Approve a policy concerning insurance requirements for improvement and subdivision improvement agreements that contains the following components:
 - a) Extension of ongoing operations liability coverage and completed operations coverage to the City of Morgan Hill (current practice)
 - b) Liability coverage of at least \$2 million per occurrence (up from \$1 million)
 - c) Aggregate liability coverage of at least \$4 million (up from \$1 million)
 - d) Occurrence based insurance, not claims made insurance (current practice)
 - e) Commitment to extend completed operations coverage for 3 years (new)
 - f) Exception to the extension of completed operations coverage to the City where the City or RDA partners with a non-profit, low income housing organization on a project (new)
2. Direct staff to include policy requirements in future improvement and subdivision improvement agreements, subject to City Attorney review and approval.

FISCAL IMPACT: No direct fiscal impact. The impact of potential claims against the

City for construction defects causing injury to third parties would be minimized.

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LIST OF SUBDIVISION IMPROVEMENT & IMPROVEMENT AGREEMENTS APPROVED BY CITY
AND RELATED INSURANCE COMPONENTS
JANUARY 1, 2004 THROUGH 12/31/04

DEVELOPER	PROJECT	\$ AMOUNT	CITY COUNCIL ACTION	AGREE- MENT DATE	OCCURRENCE	AGGREGATE	OCCUR- RENCE BASED?	POLICY PERIOD
					LIABILITY INSURANCE COVERAGE	LIABILITY INSURANCE COVERAGE		
South Valley Developers	Quail Creek Ph. II	\$ 246,425	7/23/2003	2/9/2004	\$ 1,000,000	\$ 2,000,000	Yes	3/1/03-3/1/04
Coyote Estates (Dividend)	Coyote Estates VII	1,085,302	4/21/2004	6/9/2004	1,000,000	1,000,000	Yes	12/12/03-12/12/04
South Valley Developers	Central Park VII	478,514	4/21/2004	4/19/2004	1,000,000	2,000,000	Yes	3/1/04-3/1/05
Weston & Miles	Day Worker	80,377	8/18/2004	6/11/2004	1,000,000	2,000,000	Yes	7/19/04-7/19/05
Weston & Miles	Granary	62,733	8/18/2004	6/11/2004	1,000,000	2,000,000	Yes	7/19/04-7/19/05
Alicante 2004 (Dividend)	Alicante	1,435,928	8/18/2004	8/12/2004	1,000,000	1,000,000	Yes	12/12/03-12/12/04
MarRad Group	Lands of Marquez	470,439	6/2/2004	6/10/2004	1,000,000	2,000,000	Yes	6/4/04-6/4/05
San Pedro Villas, Inc.	San Pedro Villas	120,662	6/23/2004	8/20/2004	1,000,000	3,000,000	Yes	8/30/04-8/30/07
South Valley Developers	Gateway Center 2	87,220	9/15/2004	8/27/2004	1,000,000	2,000,000	Yes	3/1/04-3/1/05
Tuscany Meadows LP	Tuscany Meadows	840,185	7/21/2004	8/11/2004	1,000,000	2,000,000	Yes	9/23/04-9/23/05
Mission Ranch/Dividend	Mission Ranch VII	595,285	9/1/2004	9/16/2004	1,000,000	1,000,000	Yes	12/12/03-12/12/04
MH Development Partners	Sutter Place	698,896	10/6/2004	10/15/2004	1,000,000	2,000,000	Yes	10/22/03-10/22/04
MH Development Partners	Jarvis Drive	944,545	10/6/2004	10/15/2004	1,000,000	2,000,000	Yes	10/22/03-10/22/04
South Valley Developers	Quail Creek Ph. III	417,588	9/15/2004	10/21/2004	1,000,000	2,000,000	Yes	3/1/04-3/1/05
Glenrock Builders	Capriano VI	851,948	10/27/2004	11/9/2004	2,000,000	3,000,000	Yes	11/20/04-11/20/05
So. Co. Community Bldrs.	Viale	406,535	9/1/2004	Pending	2,000,000	3,000,000	Yes	7/1/04-7/1/05
So. Co. Community Bldrs.	Morgan Station	530,230	9/22/2004	11/10/2004	2,000,000	3,000,000	Yes	7/1/04-7/1/05
Ho	Lands of Ho	415,490	9/15/2004	8/27/2004	1,000,000	2,000,000	Yes	9/10/04-9/10/05
Kosich	Lands of Kosich	70,460	12/15/2004	12/29/2004	1,000,000	2,000,000	Yes	12/29/04-12/29/05
South Valley Developers	Quail Meadows II	533,000	11/17/2004	Pending	1,000,000	2,000,000	Yes	3/1/04-3/1/05
San Pedro Villas, Inc.	San Pedro Villas	670,778	11/17/2004	Pending	1,000,000	3,000,000	Yes	8/30/04-8/30/07

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LIST OF SUBDIVISION IMPROVEMENT & IMPROVEMENT AGREEMENTS APPROVED BY CITY
AND RELATED INSURANCE COMPONENTS
JANUARY 1, 2004 THROUGH 12/31/04

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CITY COUNCIL STAFF REPORT

MEETING DATE: January 19, 2004

DOWNTOWN AREA BUILDING ALLOTMENT

RECOMMENDED ACTION(S): Council Discretion

EXECUTIVE SUMMARY:

At the City Council's December 15, 2004 meeting, the Planning Manager presented a staff report on options to supplement the City's Residential Development Control System building allotments in the Downtown Area. At the December 15 meeting, Staff informed the City Council that the Planning Commission reviewed this item on December 14, 2004, forwarding a recommendation to the Council to increase the downtown area set asides. Planning Manager Rowe informed the City Council that staff would be returning, on January 19, 2005, with a detailed report on the Planning Commission's recommendation on how the set asides should be distributed.

Staff was not able to complete the detailed staff report on the Planning Commissions' downtown area building allotment recommendation in time to be included in the City Council's agenda packet. The staff report will be completed and distributed to the City Council prior to the January 19, 2005 meeting. The December 15, 2004 City Council staff report, and the December 14 draft Planning Commission minutes are attached for Council reference.

FISCAL IMPACT: No budget adjust required at this time.

Agenda Item # 25

Prepared By:

**Council Services &
Records Manager**

Approved By:

Planning Manager

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: January 19, 2005

REVIEW OF CITY COUNCIL COMMITTEES AND APPOINTMENTS TO OUTSIDE AGENCIES

RECOMMENDED ACTIONS:

1. **Review** the Current List of Assignments and Appointments and Make Suggested changes to the Mayor
2. Mayor to **Appoint** Council Members to Serve on the Various Council Committees and Outside Agencies Subject to City Council Approval
3. **Direct** the City Clerk to notify the appropriate agencies of amended assignments

EXECUTIVE SUMMARY:

In 1994, the City Council adopted a policy that sets forth the procedures for assigning Council Members to outside agencies and committees in order to ensure that the interests of the City are represented. The policy states that the Mayor shall have priority in the selection of Outside Agencies, followed by seniority. Expertise and special interests of Council Members should be considered, including a situation where the Council Member rotates into a leadership role such as Chairperson to an outside agency. The adopted policy states that assignments to outside agencies shall be made annually, by the Mayor, subject to confirmation of a majority vote of the City Council. Attached and marked as Exhibit "A" is adopted Council Policy CP 94-01.

Typically, the Council reviews its outside agency assignments during the month of December. However, the Council deferred rotation of outside agency assignments following the Council's annual goal setting session scheduled for Friday, January 14 and Saturday, January 15, 2005.

The Council adopted two "Governance" goals in 2004. One of the governance goals reads as follows:

By December 2004, City Manager is to evaluate the existing system of Council committees and subcommittees, as well as its citizen commissions, committees and task forces and prepare recommendations for reducing costs, enhancing communication and improving decision-making decisions.

The City Manager is prepared to present the Council a report on his evaluation of the existing system of Council subcommittees, including those of citizens, commissions, and task forces at the Council's January 2005 goal setting session.

Staff has scheduled this item for Council consideration in order to allow Council Members the opportunity to review current assignments and to identify assignments that Council Members may wish to rotate into or out of, particular those assignments vacated by former Councilwoman Hedy Chang. Attached for Council assistance is Exhibit "B" which lists Council Committees and Outside Agency Assignments and Exhibit "C" which details the agency names, purpose of the agency, how often the committees/outside agencies meet, the current Council delegate and the staff representative(s). Also, attached is Exhibit "D," a list of request by other outside agencies for City Council representation/appointment.

Once the City Council have identified outside agency assignments, staff will notify the appropriate agencies and advise them of the changes.

FISCAL IMPACT: The time preparing the staff report is accommodated by the Council Services & Records Manager's operating budget.

Agenda Item # 26

Prepared/Approved
By:

Council Services and
Records Manager

Submitted By:

City Manager

REQUESTS FOR CITY OF MORGAN HILL
REPRESENTATION TO VARIOUS AGENCY ASSIGNMENTS

1. **Santa Clara County Task Force to End Homelessness.** A request from the Santa Clara County Board of Supervisors for Mayor Kennedy to attend or appoint a Morgan Hill Council Member or citizen to be a part of the newly formed Task Force which will meet 3-4 times in the next six months. The Task Force held its first meeting on Wednesday, December 15, 2004 at 5:30 p.m. To date, no formal schedule has been set. Mayor Kennedy recommended that this task force appointment be discussed with other outside Agency appointments on 1/19/04.
2. **Santa Clara Valley Transportation Authority Policy Advisory Committee.** A request for City of Morgan Hill appointment of a representative and alternate to the VTA PAC.
3. **Santa Clara Valley Water District.** A request to update appointments to the following Board Advisory Committees:
 - a. Coyote Flood Control and Watershed Advisory Committee
 - b. Guadalupe Food Control and Watershed Advisory Committee
 - c. Lower Peninsula Flood Control and Watershed Advisory Committee
 - d. Uvas/Llagas Flood Control and Watershed Advisory Committee
 - e. West Valley Flood Control and Watershed Advisory Committee
 - f. Santa Clara Valley Water Commission



REDEVELOPMENT AGENCY

MEETING DATE: *January 19, 2005*

Agenda Item #27

Prepared By:

BAHS Manager

Approved By:

BAHS Director

Submitted By:

Executive Director

DOWNTOWN REQUEST FOR PROPOSAL (RFP): GRANADA THEATER AND GUNTER BROTHERS GRANARY

RECOMMENDED ACTION(S): Direct staff to: 1) negotiate agreements with the developer/theater operator, and the landlord for the Granada Theater in an amount not to exceed \$1,060,000; 2) negotiate an agreement with the developers of the Gunter Brothers project in an amount not to exceed \$363,000; 3) work with Glenrock to revise its proposal to more closely meet the goals of the Downtown Plan; and 4) work with the developer/operator of Booksmart/Thinker Toys to encourage a joint venture with one of the property owners along the Third Street block for the relocation and expansion of the business.

EXECUTIVE SUMMARY: On December 15, 2004, the Redevelopment Agency (Agency) decided that the City's funding priority for the Downtown was the re-opening of the Granada Theater (the "Granada"). Staff was directed to expedite its review of the Granada and the Gunter Brothers project (Gunter Brothers) proposals received in response to the City's Request for Proposals. On January 7, 2005, staff met with and received direction from the Council's Economic Development Subcommittee (Subcommittee) regarding all of the proposals received. Project summaries together with Subcommittee recommended negotiating parameters are attached. The Subcommittee recommends the following:

Granada Theater Project: after evaluating the level of risk involved, the Subcommittee recommends full funding for this project since it is expected to be a key catalyst for the revitalization of the Downtown.

Gunter Brothers Project: this project is seen as time sensitive and having a current "window of opportunity." The Subcommittee believes it is worth pursuing based on the relatively small, short-term investment as contrasted with the total project value and impact on the Downtown.

Sunsweet and Booksmart Projects: the Subcommittee has determined these projects are not ready to proceed at this time. The Sunsweet project does not meet the goals for Third Street as set forth in the Downtown Plan. The Booksmart project is unable to proceed unless a willing property owner/developer has been identified. The Subcommittee recommends that staff work with the projects proponents of these two projects to help ready them for funding consideration.

All agreements with the Agency will require a public hearing to be approved. While staff will promptly pursue negotiations, these are complex transactions that will take time to develop.

FISCAL IMPACT: Of the \$3,000,000 originally set-aside for the Downtown Request for Concepts process, \$1,810,000 in Economic Development/infrastructure funds and \$1 million in housing funds remain. If \$1,060,000 is allocated to the Granada and \$363,000 to Gunter Brothers, \$387,000 in Economic Development/infrastructure funds and \$1 million in housing funds could be made available for the Sunsweet and Booksmart projects.